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# **The political economy of land and dispossession in Colombia**

Frances Thomson

University of Sussex  
Department of International Relations  
Centre for Global Political Economy

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I hereby declare that this thesis has not been submitted, either in the same or different form to this or any other University for a degree.

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Date:

University of Sussex  
Frances Thomson  
Submitted for the degree of Doctor of Philosophy  
The political economy of land and dispossession in Colombia

## Summary

This thesis analyses land dispossession and associated displacement in Colombia from a critical, historical, political economy perspective. It illustrates how and why dispossession and related policies have changed, what is distinctive about contemporary processes and how these have been shaped by the country's specific trajectory of economic development. I consider land grabs effected by private agents and coercive State-backed acquisitions, as well as other forms of dispossession; this generates new insights into what has happened in Colombia, where different forms overlap. In general, the thesis provides for a different and richer understanding of the underlying drivers, varied enabling factors, and complex mechanics of land dispossession in 21st century Colombia.

The analysis serves to challenge superficial accounts of dispossession in Colombia specifically and mainstream explanations of the issue more broadly. The former treat dispossession as an aberration of the armed conflict and/or downplay the importance of other factors. The latter suggest that dispossession arises in the absence of clearly defined property rights and a strong rule of law or that it is imposed by governments for the 'public good'. A critical political economy approach highlights and attends to the deficiencies of explanations that minimise the importance of history, power relations, social struggles, ideology and the wider socio-political-economic context.

Dispossession has typically been investigated as an appendage to other issues, such as the development of capitalism or armed conflict. This thesis, by contrast, puts dispossession at the centre. I identify and critically analyse key claims about dispossession across varied theoretical fields and thus construct a broad conceptual framework that could be of use to other scholars interested in this growing area of research. I also advance a number of original arguments, including: that the capitalist land regime is laden with contradictions and that perpetuating growth based on capital accumulation relies on the imposition, violation and restriction of private property rights in land. The importance of property *violations* and *restrictions* in mobilising land for capitalist development is overlooked even by critical scholars who tend to associate dispossession with enclosures and privatisation. Overall, the thesis shows how analyses of land dispossession can shape the way we think about broader issues and opens up new questions for future investigation.



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## Glossary and Acronyms

- AUC – *Autodefensas Unidas de Colombia* or United Self-Defence Forces of Colombia, paramilitary umbrella organisation.
- *Baldío* – lands that do not have an official history of private ownership and -as such- technically belong to the State, also referred to as State lands.
- *Cabildo* – a ‘special public entity’ (with colonial origins) that is in charge of representing an indigenous community and administering internal norms within their corresponding territory, which may or may not be formally constituted as a *resguardo*. This community-level entity is made up of different volunteer delegates -such as governor, health or education secretary, treasurer, and so forth- who are chosen by the community on a yearly basis. The term ‘cabildo’ is also used flexibly in reference to the community the organisation represents.
- *Campesino* – akin to peasant; though the term is used widely to describe people with scarce resources who live in rural areas (both smallholders and wage labourers) and is associated with a particular culture and way of life.
- *Colonos* – peasant settlers, *campesino* migrants who established on ‘frontier’ lands.
- COP – Colombian peso.
- ELN – *Ejército de Liberación Nacional* or National Liberation Army, guerrilla group.
- EPL – *Ejército Popular de Liberación* or Popular Liberation Army, guerrilla group.
- FARC – *Fuerzas Armadas Revolucionarias de Colombia* or Revolutionary Armed Forces of Colombia, guerrilla group. Since the 2016 peace accords the FARC is a political party with the same acronym, standing for *Fuerza Alternativa Revolucionaria del Común* or Common Alternative Revolutionary Force.
- FDI – foreign direct investment.
- *Hacendado* – the owner of a hacienda, traditional large landowner.
- IDP – internally displaced population or internally displaced person.
- ISI – import substitution industrialisation.
- INCODER – *Instituto Colombiano de Desarrollo Rural* or Colombian Institute of Rural Development, which was recently replaced by the *Agencia Nacional de Tierras* or National Land Agency - among other entities.
- INCORA – *Instituto Colombiano de la Reforma Agraria* or Colombian Institute of Agrarian Reform, which was replaced by the INCODER.
- Prescription – acquisition of land via prescription or adverse possession, legal concept.
- *Resguardo* – indigenous territory under collective title, which is governed by a *cabildo*. Institution/concept originally established in the colonial era.
- SNR - Superintendencia de Notariado y Registro or Superintendent of Notaries and Registries.
- UAF – *Unidad Agrícola Familiar* or Agricultural Family Unit, concept introduced by Law 135 of 1961. It is the land area -legally defined- necessary for a rural family to earn an adequate income, but not so large that production consistently requires hired workers.

The UAF is different for each region and depends on various factors, such as soil quality and infrastructure. It is associated with land ceilings and floors, designed to determine titling areas and prevent concentration/fragmentation of rural property. The term 'UAF rules' refers to restrictions on the accumulation of former State lands – no one person is allowed to accumulate more than one UAF (originally titled as a *baldío*) under Law 160 of 1994.

- USD – United States dollar.
- ZIDRES - *Zonas de Interés de Desarrollo Rural y Económico* or Rural Social and Economic Development Interest Zones, concept introduced by Law 1776 of 2016. These are areas specially designated by the government, where special rules and (de-)regulations apply, intended to promote large-scale agricultural investments, especially in regions with poor infrastructure.
- ZRC/PRZ – *Zona de Reserva Campesina* or Peasant Reserve Zone, concept introduced by Law 160 of 1994. These are areas specially designated by the government, where special rules and regulations apply, intended to promote and support the *campesino/colono* economy, strengthen the organisation of rural communities and their participation in State planning and prevent further concentration of rural land, among other things.

Figure 1-

Political Map of Contemporary Colombia



Note: This is an edited version of the original image cited below. Edits by Juan Pablo Betancur on behalf of the author. Some details were removed in order to facilitate identification of the different departments.

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## Introduction

What development? I don't see this famous development. [...] The only thing oil activities have left us is misery, violence and terror, and that is very clear. We want the new generation to be able to live here in peace. [...] I want] clean water and pure air for my grandchildren, so that they can go to the river and say how wonderful this territory is [...] May they kill us defending the land, may they kill us for working for the wellbeing of the people (Inhabitant of Nasa Cxha Cxha - Putumayo, personal interview, 2015).

They [the gold mining company] put 10 cents in and said that Marmato belonged to them. [...] People said not to get involved because they would kill us [...] we learnt that we had to lose our fear, that if they were going to kill us so be it, because it is the life of everyone or the life of one [person]. I prefer to die than everyone having to leave displaced (Inhabitant of Marmato - Caldas, personal interview, 2014).

War has many faces; that of death with blood, with displacement, with the burning of villages and the other face of land appropriation for the rich, for the development of a few. [...] *new page and new speaker*] We resist to defend life, to defend our territory for our children, for all of our humanity. [...] If I die defending my rights, I die with pleasure (Inhabitants of Curvaradó and Jiguamiandó - Chocó cited in CIJP, 2005, pp. 54, 65).

These people, from diverse parts of Colombia, all expressed a willingness to die for their land or territory - to protect it and/or to defend against being uprooted from it. I chose to start with these quotes for three reasons. First, this thesis is essentially about real people and their struggles. This can easily be lost in abstract discussions, so I decided to start with their words. Second, there is no clearer way of expressing the problem of value incommensurability. Most institutions work on the assumption that land is a commodity, that it can be easily replaced or that its loss can be compensated with money. But the fact that some would risk death before giving up their lands shakes this assumption to its foundations. Finally, these narrative fragments point to the destructive throes of economic 'development' and the resistance this elicits. All three are from communities that are/were threatened by dispossession and displacement linked to investment interests in petroleum, gold and palm oil respectively.



As of 2016, Colombia was said to have the largest internally displaced population (IDP) in the world (UNHCR, 2017, p. 65). Just under 7.2 million people have fled their homes since 1985. The majority were uprooted since 2000 (RUV, 2017) and circa 85% of displacements occurred in rural areas (CNMH, 2015b, p. 16). The official and immediate cause of this displacement calamity is the decades-long armed conflict (the above figures do not include those ‘legally’ displaced to make way for State-backed investments nor those displaced by disasters such as flooding and landslides). However, displacement has also been used as a tool of land appropriation; it was/is often the purpose, rather than an unintended consequence of violence (Mondragón, 2006; Maher & Thomson, 2011; Thomson, 2011, 2014).

The close relationship between commercial land interests and violent displacement has been recognised by Colombia’s Constitutional Court: “economic actors have allied with irregular armed actors [... who commit] acts of violence that eliminate or displace the indigenous from their ancestral territories, clearing the way for the implementation of productive [agro-industrial and mining] projects”. The Court notes that in some areas the link between armed groups and economic interests “is one of *the principle causes* of forced displacement” (Corte Constitucional, 2009, p. 8, my emphasis). Though this Writ is focused on indigenous peoples specifically, the same observations also apply to many Afro and mestizo *campesino* communities. As Grajales explains (2011): “displacement as a land grabbing strategy is sufficiently well-documented to be considered a proven fact” (p. 783).

Paramilitaries and their elite allies orchestrated the displacement of countless households and communities to take over land and/or employed violence to prevent the displaced from reclaiming their homes, farms and territories. They typically legalised these land occupations by gaining property or use rights for themselves and their associates using force and fraud. Often, the land was sold on to other investors through a complex chain of transactions designed to conceal the violent origins of the acquisition. The stolen land was/is used for tree plantations and other agribusiness ventures or for cattle-ranching, as well as for illicit enterprises. In some cases, paramilitary-led land clearances served oil, mining and infrastructural projects backed by the State’s eminent domain or taking powers - its ‘right’ to dispossess and displace people legally for ‘public utility and social interest’.

‘Collateral damage’ type displacement and that motivated by factors other than land control for business ventures has also served local, national and global investment interests. For operators and owners of State-backed projects, the violent expulsion of large segments of the population (whether intentional or not) from the targeted investment area implied

fewer people to consult and negotiate with, fewer to oppose the scheme, and fewer to resettle and compensate (Ó Loingsigh, 2013, p. 86). Violence has also enabled opportunistic and predatory land accumulation (acquisitions that lie in between coercion and consent) by investors and businesses that purchased abandoned farms at clearance prices, thereby profiting from the country's displacement crisis.

This dispossession, associated with the armed conflict, is difficult to quantify. As of 2012, 40.7% of registered displaced persons reported having abandoned land; at the time, the register included circa 4 million IDPs (UNHCR, 2012, p. 1). However, such figures do not distinguish between people directly stripped of their land, those who sold in a state of distress, and families whose abandoned lands are not claimed by others. According to one government entity (*Acción Social*), the displaced were forced to abandon some 6.5 million hectares; other sources suggest the figure is as high 10 million hectares (UNHCR, 2012, p. 1). Again, however, it is not known how much of this land was usurped or acquired opportunistically -taking advantage of the displacement crisis- at giveaway prices.

Some observers use information from the recent land restitution process (initiated under Law 1448 of 2011) to generate quantitative characterisations of dispossession. As of May 2019, the Land Restitution Unit (URT – acronym in Spanish) had received 121,462 restitution requests pertaining to 110,623 plots of land. At the time, 71,284 of these applications had been processed and 46,040 (64.5%) had been rejected at the administrative stage. By this same date, 9,983 requests had been resolved through 5,045 court sentences, resulting in 7,502 restitution orders benefitting 45,655 people and covering 341,725 hectares of land (Unidad de Restitución de Tierras, 2019). It is important to stress, however, that these figures do not disaggregate land abandonment and usurpation<sup>1</sup> and it seems most restitution cases concern the former: in 2013, for example, the URT indicated that 61.2% of restitution requests pertained to cases of forced abandonment and 32.7% to usurpation or *despojo* (cited in CNMH, 2015a, p. 23).

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<sup>1</sup> Under the Victims and Land Restitution Law (1448 of 2011), victims of the armed conflict can apply for the legal and material return of usurped or forcibly abandoned lands. The Law defines *despojo*, translated as dispossession or usurpation, “as an action by which, taking advantage of the violent context, a person is arbitrarily deprived of their property, possession or occupation - whether de facto, through juridical means, an administrative act or sentence, or through the commission of crimes associated with the violent situation” (Congreso de la República de Colombia, 2011a, Art. 74). This may be contrasted with “forced abandonment [...] a situation faced by someone who is forcibly displaced and, as a result of their displacement, is unable to administrate, exploit, nor have direct contact with their land [...]” (*ibid*).

The NGO Forjando Futuros has created an interactive database using information from the recent land restitution process. The database currently contains information from 4,733 sentences pertaining to 8,087 cases and more than 7,000 plots of land, 2,447 (32%) of which are said to have been usurped as opposed to forcibly abandoned. Most of these plots (1,806 or 73.8%) were usurped between 1996 and 2004, in the wake of violence perpetrated by paramilitaries - deemed responsible for actions enabling land usurpation in 81% of cases<sup>2</sup>. In 1,757 (or 72% of) cases classified as usurpations, at least one individual or entity legally opposed the restitution request (Forjando Futuros, n.d.)- the website includes a list of companies that have acted as legal opponents. A publication by the same organisation indicates that the vast majority of successful restitution claims have been for small or medium -sized properties: 95% of 5,213 'restituted' plots were less than 50 hectares (Forjando Futuros, 2018).

Such quantitative data, drawn from the restitution process, is certainly informative but it is not a precise way of measuring different aspects (e.g. numbers of hectares usurped or people dispossessed, where the majority of cases took place, temporal high points, etc.) of land dispossession in Colombia. Consider that persons stripped of their land before 1991 are not eligible for restitution under Law 1448 and many -perhaps most- of those dispossessed who *are* eligible have not applied (see e.g. my article Thomson, 2017); such cases (that occurred prior to 1991 or when the affected have not requested restitution) are not covered by the URT figures. Furthermore, some instances of dispossession have been challenged through other legal routes (rather than via Law 1448) and thus are also excluded from the above statistics; the paramilitary-led usurpation of tens of thousands of hectares in the collective territories of Curvaradó and Jiguamiandó, for example, has been handled by the Constitutional Court. And, of course, given the scope and purpose of restitution, coercive land acquisitions (ostensibly) unrelated to the conflict-context are omitted from the outset. Finally, these restitution statistics tell us little about how conflict-related land grabs were achieved and for what purpose. So, for now, the most insightful information about land dispossession in contemporary Colombia is qualitative. This qualitative evidence reveals that dispossession has defined the political economy of land in Colombia during the late 20<sup>th</sup> and early 21<sup>st</sup> centuries.

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<sup>2</sup> Guerrillas (the database does not distinguish between insurgent groups) are considered responsible in 9% of usurpation cases, followed by armed confrontations (4%), unidentified actors (4%) and the State (2%).

## 1) Looking beyond armed conflict to explain dispossession in Colombia

Historically, land grabbing has been a common characteristic of war across the world. In the 16<sup>th</sup> and 17<sup>th</sup> centuries, for example, “war [was seen] as a socially acceptable form of property acquisition” (Korman, 1996, p. 302). The so-called ‘right of conquest’ was thought to include a right to enslave civilians and take their property. The rules of war, as perceived by European scholars and applied to peoples deemed ‘civilised’, started to change with the decline of absolutism and the growing distinction between the property of the State or sovereign and the private property of its citizens (*ibid*, pp. 29-34). Plunder or pillage, defined as “the forcible taking of private property by an invading or conquering army”, is now considered a “war crime” (ICRC, 2014a). Contemporary customary international humanitarian law also affirms “the rights of displaced persons” and the need to protect their abandoned “property and possessions” against “destruction and arbitrary and illegal appropriation, occupation or use” (ICRC, 2014b). These rules are an implicit recognition of the persistence of war-time plunder.

The relationship between armed conflict and *land* issues specifically has gained increasing attention from policy-makers and academics in recent years. This literature mainly examines how disputes over land and related resources contribute to the onset and perpetuation of armed conflict and vice versa. Much of this research is policy-oriented, considering how to address land issues to prevent the escalation of localised disputes into generalised violence and how to incorporate land issues into peacebuilding programs (Takeuchi, 2014; Unruh & Williams, 2013b; UN, 2012). While this land-conflict literature is contributing to important discussions, this thesis takes a different approach by shifting the focus *away* from armed conflict. I do not deny the importance of the land-conflict nexus in Colombia and this relationship is certainly not ignored in the analysis. However, my aim is to explore the issue of dispossession, rather than to explain the Colombian conflict and its relationship to land disputes. Furthermore, an overemphasis on armed actors and conflict dynamics can imply downplaying other factors that drive, enable and shape dispossession.

Indeed, mainstream media and other sources often implicitly treat dispossession in Colombia as an aberration of armed conflict. In some cases, it is implied that recent land accumulation is an incidental outcome of land abandonment caused by the violence. For example: “about 4 million hectares of land has been abandoned by IDPs; three times the amount redistributed through government land reform efforts since 1961. Displacement

has thus brought about massive agrarian counterreform” (Deininger & Lavadenz, 2004, p. 1). Others emphasise how armed groups (sometimes failing to distinguish between these groups) wield violence to enrich themselves.

This thesis shows that dispossession in Colombia doesn’t fit well with stereotypical notions of wartime plunder. The paramilitaries and their allies (what I call the para-elite) have generally sought to legalise and legitimate land usurpation and have relied on an extensive network of people to achieve this. So, violence has been a key mechanism of dispossession but is/was insufficient on its own (see also Grajales, 2011). It is often argued that dispossession is particularly prevalent during armed conflict because of an associated breakdown in institutions - in particular those upholding and regulating property rights (Takeuchi, Katayanagi, & Murotani, 2014, p. 242; UN, 2012, p. 9; Unruh & Williams, 2013a, p. 9). While this may be true elsewhere, in Colombia the para-elite achieved dispossession through careful navigation and deployment of property rules, rather than by taking advantage of their collapse.

I argue more generally that armed conflict should not be treated as the ultimate cause of land grabbing in Colombia, but rather as one among several enabling conditions. As highlighted by Cramer and Wood, wars do not uniformly lead to land concentration; “[f]or example, landholdings in El Salvador were dramatically *fragmented* by the state’s counter-insurgency agrarian reform, occupation of land by insurgent-allied cooperatives, and market transactions driven by remittances from the United States and the inability of landlords to work their land” (Cramer & Wood, 2017, p. 735, emphasis added; see also Peña-Huertas, Ruiz, Parada, Zuleta, & Álvarez, 2017; J. Vargas & Uribe, 2017). In this sense, the mere existence of war, on its own, explains very little. A consideration of the particularities of the Colombian conflict -including the “direct participation of rural elites” and in particular “big cattle ranchers” in paramilitary groups- is key to explaining coercive land accumulation (Gutiérrez-Sanín & Vargas, 2017). In fact, Gutiérrez and Vargas (2016) determined that paramilitary units “organically articulated” with “rural elites” consistently used violence or threats to appropriate land; and that land grabbing was much less common among units lacking this characteristic. However, as noted by these authors, other factors, especially the institutional setting in which land accumulation took place, are also important. In brief, dispossession in Colombia, including that effected by the para-elite, must be understood within the wider social, political, legal, economic and historical context. Cramer’s observation that “[w]ar is often an especially sharp reflection of tendencies and characteristics common in societies not at war” (2002, p. 1846) is pertinent here.

Accordingly, this thesis surveys dispossession that has *ostensibly* occurred outside the conflict setting, in addition to that affected by the paramilitaries and their allies, which -for good reasons- has captured most academic attention (see e.g. Ballvé, 2013; Grajales, 2011, 2013; Gutiérrez Sanín & Vargas Reina, 2016). This comprehensive approach -including land grabs effected by private agents and coercive State-backed acquisitions- differentiates my research from other investigations and permits further insight into what has happened in Colombia, where different forms of land dispossession overlap. I demonstrate how counterinsurgency warfare has facilitated investments underwritten by the State's taking powers and how these projects intertwine with 'illegal' land grabs and expulsions - revealing the tenuousness of distinctions between conflict-induced (considered detrimental to the economy) and development-induced (portrayed as a necessary sacrifice for growth) displacement.

More broadly, this thesis challenges the assertion that land dispossession in conflict-contexts is necessarily disruptive to capitalist development. For example: "When fraudulent, coerced or ambiguous land transfers are widespread, the competing claims that arise undermine tenure security, and thereby inhibit investment and growth" (Unruh & Williams, 2013c, p. 538). In Colombia, policies designed to promote investment and growth have inadvertently bolstered dispossession. And resulting land use changes have often been compatible with the government's economic vision, which is based on what Selwyn calls "elite development theory"<sup>3</sup>. Put simply: violent land grabs and opportunistic/predatory acquisitions have served and been served by the government's economic development agenda (for a broader discussion of how 'certain types of civil war violence can buttress economic growth' see Maher, 2014, 2015).

These arguments draw on and contribute to the growing academic literature on dispossession in Colombia, which has challenged the simplistic representations commonly found in mainstream discourses, by looking beyond armed conflict in order to explain the phenomenon. Grajales (2011), for example, stresses that "the profitability of land grabbing requires the institutional recognition of property rights" and that the usurpers relied on "social capital", and not just "violent capital", to achieve this (p. 783; see also 2013, p. 223).

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<sup>3</sup> Selwyn discusses various types of "elite development theory". Despite differences, the "elitism [of such theories] is manifested in three ways: through the identification of elites [...] as primary actors in the development process; by ignoring and delegitimising the poor's actions to uplift themselves, unless these actions complement elite conceptions of development; and by legitimating the exploitation and repression [and dispossession] of the poor, in the name of helping the poor" (Selwyn, 2016, p. 795).

He also points to the importance of Colombia's economic development policies (in particular, the promotion of oil palm cultivations), noting that while "local collusive networks linking paramilitary groups, politicians and civil servants" were important, "the relation between state action and violent land spoiling is not limited to these local configurations" (2011, p. 785; see also 2013, p. 213). He rejects portrayals that focus on "State capture" by external "criminal actors", emphasising instead the role of "violence and spoiling in the formation of the state" (Grajales, 2011, p. 789). This thesis helps strengthen some of Grajales' claims by offering a comprehensive analysis of the enabling role played by diverse non-armed actors and multiple State policies not covered in his articles; it also sheds additional light on these issues by examining how the political economy of dispossession in Colombia (which I argue is intimately linked to the country's trajectory and vision of economic development) has changed over time.

Moreover, case study research -focused on specific municipalities or regions- has contributed to the identification of varied forms and mechanisms of land dispossession in Colombia (see e.g. Ballvé, 2013; Grajales, 2013; García Reyes & Vargas Reina, 2014; Uribe Kaffure, 2014; Quinche, 2016; Barrios & Vargas Reina, 2016). Ballvé's (2013) study of two 'cases' in northwest Colombia, for instance, provides a rich description of the complex processes behind dispossession and specifically "land laundering", revealing how "the grassroots development apparatus -its discourses, institutional forms, and practices- became utterly instrumental to the illegal land seizures" in this region (p. 62).

García and Vargas' (2014) comparison of cases from the municipalities of Turbo (Antioquia) and El Carmen de Bolívar (Bolívar) leads them to distinguish between "asymmetric transactions" based on a direct use of force versus those based on unequal access to information. They show how the latter facilitated mass purchases/sales in the aftermath of forced displacement. Similarly, Uribe (2014) describes two different "routes" to land concentration in Tibú (North Santander): one defined by paramilitary-led "coercion" and another defined by "de-regulated markets"<sup>4</sup> or more precisely "a market activated by coercive means, but not operated by the coercive actor" (p. 278). Like Grajales, Uribe points to the State's active promotion of the palm oil sector in facilitating these processes. A later

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<sup>4</sup> The author's use of the term "deregulated market" is slightly confusing, as is the implied dichotomy between this path and the "coercive path". However, the body of the article itself is clear: on the one hand, the relevant officials either could not or would *apply* relevant regulations, specifically those designed to protect displaced persons' land rights; on the other hand, the land accumulation achieved through apparently 'voluntary' transactions was facilitated by violence and forced displacement, though the buyers themselves did not use threats or force to obtain the land.

publication by Vargas & Uribe (2017) re-articulates the ideas presented in these earlier articles: they explain how in some areas “political and market mechanisms” were more important than “coercion” in generating land accumulation<sup>5</sup> and stress that “the Colombian State selected the winners” of this accumulation through its “agrarian development policies”, in particular those aimed at bolstering palm oil production (pp. 749 and 757).

Another recent publication, by Peña et al. (2017), also examines the varied ‘types’ of dispossession in Colombia. They focus on two types: (1) “administrative dispossession” or cases where government officials (re-)assigned rights over land usurped or abandoned as a result of the war and (2) “dispossession through legal transaction” or cases where the land was transferred through a ‘normal’ purchase/sale process, which in turn includes the subcategories of (a) “dispossession by means of vitiated consent” and (b) “dispossession through *laesio enormis*” or when the price paid for the land was much lower than the ‘fair’ price – also indicating that a transaction was not wholly voluntary (pp. 762-765). The authors argue that the “techniques used to promote coercive dispossession [...] were] significantly broadened and escalated” in the context of the war (Peña-Huertas et al., 2017, p. 759). In other words, the armed conflict resulted in an increased frequency of coercive acquisitions *and* the advent of “new mechanisms” of land dispossession. They highlight the predominance of ‘private transactions’ (what I call ‘forced transfers of ownership’ or ‘coerced sales’ – see Chpt 7) and note that during the war period “dispossession was not restricted to the agricultural frontier areas, but was established in areas of the country with formal land titles and greater institutional density” (p. 766). They list three main reasons dispossession was ‘broadened and escalated’ during the worst years of the war: (1) violence led to mass forced displacement and land abandonment, which clearly facilitated the phenomenon; (2) “there were new opportunities to capture state agencies or align them along purportedly anti-subversive (legal or illegal) actions”, making it easier for certain people to obtain legal rights over spurious land claims; and (3) “there was a context that weakened peasant property rights” (p. 760). Unfortunately, the authors do not explain why they consider that the “weakening of peasant property rights” was a result of the armed conflict specifically; it’s possible they simply mean that 1 & 2 led to 3.

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<sup>5</sup> In this article, too, the word choice could be misleading since it suggests the processes described by the authors did not involve coercion. Both authors have explained this more precisely elsewhere: García and Vargas (2014) write of a “continuum” between “violence and market”, noting that “none of the types observed can be understood as a purely market-driven [...] or as purely a forceful dispossession” (p. 43); while Uribe’s (2014) piece refers to “markets activated via coercion” (p. 278), as noted above.



While I would certainly agree that the armed conflict enabled an intensification of land dispossession in Colombia or quantitative change *and* -alongside many other factors- shaped these processes in qualitative ways, arguably the ‘new mechanisms’ identified by Peña et al. are more a reflection of the expansion of private property rights rather than the specificities of the conflict-context. Put differently: in the 19<sup>th</sup> and early 20<sup>th</sup> centuries, fewer peasants had titles to their land, meaning that dispossession via private legal transactions was less common. Consider, furthermore, that these ‘mechanisms’ of dispossession are not unique to Colombia nor to countries at war<sup>6</sup>. Overall, the article by Peña et al (2017) is unique among scholarly publications on dispossession in Colombia in that it explicitly contemplates the fact that coercive land acquisitions also occurred before the armed conflict – in addition to considering how wider institutions have influenced conflict-related land grabs in Colombia (i.e. going beyond the role of armed actors and violence), as do the other authors cited. Nevertheless, the article slips towards (without falling completely prey to) the narrow perspective critiqued above in the sense that quantitative and qualitative changes to the phenomenon of land dispossession in Colombia are attributed exclusively to the armed conflict; while this has certainly been one key motor of change, it is not the only one, as shown in this thesis.

Notwithstanding some discrepancies, in general, I see my research as complementary to the literature briefly described here. This thesis draws on (at least, the earlier articles) and contributes to these discussions about land dispossession in Colombia. Still, the key contributions of this thesis lie precisely in its (in my view, reconcilable) differences from existing publications, some of which I outline in the paragraphs that follow.

First, as noted above, research on dispossession in Colombia has focused on the parallel elite land grab and, to a lesser extent, opportunistic and predatory acquisitions in the conflict context (what Uribe calls the “deregulated market route” of dispossession or what García and Vargas call “asymmetric transactions” based on “asymmetries in information”); it has neglected State-backed dispossession sanctioned by eminent domain powers. The inclusion of this broad category (which includes different forms and mechanisms)

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<sup>6</sup> Here are just a couple examples. Authorities in Tamil Nadu - India were forced to create special “land grabbing cells” to tackle hundreds of cases in which “fake documents, coupled with muscle or money power” were used to steal privately-owned lands (Kumar, 2011). In Gujarat, another state in India, at least 3 notaries were suspended in 2014 “for their alleged involvement in land grabbing cases” (Ahmedabad Mirror, 2014). Meanwhile, in Guatemala, prosecutors arrested 14 people who are said to have “forced poor farmers to sell their land at cut-rate prices”, in some cases obligating them “to go to land offices at gunpoint” (Associated Press, 2016; see also Grandia, 2013).

significantly enriches the discussion. As discussed in Chapter 8, in the abstract State-backed dispossession exists independently of the armed conflict; however, in practice they intertwine in complex ways. Hence, the neglect of this category not only limits our understanding of struggles over land in Colombia more generally, it also limits our understanding of paramilitary-backed usurpations and acquisitions facilitated by mass forced displacement specifically - i.e. the focus of previous research.

Second, and related to the above, the existing literature on land dispossession in Colombia concentrates on coercive acquisitions for agriculture; it does not address land clearance for investments in mining, hydrocarbons, hydroelectric dams, roads and ports<sup>7</sup> – precisely those that benefit from the State’s taking powers. In many areas of the country, coercive land acquisitions for such projects overlap with those aimed at agroindustrial expansion; in this sense, elucidating what has happened in these -mostly rural- territories requires considering non-agricultural elements of the economy also. Furthermore, given the centrality of mining and oil extraction to the Colombian economy, an analysis of the political economy of dispossession in the country -the purpose of this thesis- would be incomplete without reference to these sectors.

The inclusion of State-backed dispossession for mining, oil and infrastructural projects leads to different conclusions. Arguably, a de-escalation of armed conflict, *ceteris paribus*, is likely to transform, rather than resolve, dispossession and associated displacement. One plausible outcome, for example, is that the role of State force will become more important in securing land for certain types of investments, in particular those backed by eminent domain powers. Consider that the disarmament of the FARC is celebrated by many investors and government officials precisely because it ‘opens up’ additional areas of the country to these types of large-scale investments (see e.g. Dinero, 2015), which typically involve dispossession and displacement.

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<sup>7</sup> A number of scholars have touched on land appropriation linked to the mining and oil sectors in Colombia. Coleman’s work on neoliberalism, human rights discourse and resistance to dispossession, for example, includes valuable insights into land and other social conflicts related to the oil sector in Casanare (Coleman, 2013, 2015a, 2015b). Another example is Maher’s (2015) article, which argues that armed conflict can sometimes bolster economic growth. It shows that “violence has been high in municipalities of strategic importance to oil interests” in Arauca and that “episodes of violence [were] followed by greater oil production, oil exploration, and the construction of infrastructure” (Maher, 2015, p. 236). One of Maher’s conclusions is that “the data support critical arguments that forced displacement has ‘cleared’ land of people in these strategic areas” (*ibid*). However, his work, like that of others who discuss the links between mining/oil and the war in Colombia (see e.g. Richani, 2002; Dunning & Wirpsa, 2004; Stokes, 2005), is not about land dispossession per se. To reiterate, then, the literature on land dispossession *specifically* (in Colombia) has neglected non-agricultural sectors.

Third, this thesis analyses contemporary land dispossession from a long-run historical perspective, allowing for a deeper understanding of continuity and change. For example, I trace transformations in the underlying drivers of dispossession (the gradual shift from dispossession mostly motivated by an interest in acquiring and controlling labour to that motivated by an interest in the land itself and related resources), as well changes to relevant policies, and examine how these processes have been shaped by the country's trajectory and visions of economic development. Such factors are just as important as the armed conflict -if not more- in explaining recent land grabs.

Fourth, I frame my research within the wider literature about land dispossession across the world (see Chpt 2) –other investigations on Colombia mention some of these texts, but most do not systematically engage with them. This global framing led me to think about how the Colombian experience might inform our understanding of land dispossession more generally and to put forward various *tentative* propositions that may be used in future research, as explained below. This framing also led me to think differently about what has happened within Colombia itself. What became clear to me, as I read about coercive land acquisitions in other countries, was that many factors attributed (in the Colombian context) to the armed conflict are also prevalent in countries not at war. For example, it is unclear to what extent “state capture”, in particular the influence of elite groups over the institutions that govern property rights, is a result of the war. I do not wish to suggest that the armed conflict had no impact, but it is worth asking the question the other way around: can we suppose that in the absence of war Colombia would necessarily have had more progressive land institutions/policies or that these would have been more justly applied? I am not convinced; this thesis provides testament as to why.

Acemoglu and Robinson would probably arrive at a similar conclusion, albeit from a very different perspective. They suggest that “the capture of political and economic institutions by elites” is a deeply-rooted historical problem in Colombia and other parts of Latin America (Robinson & Acemoglu, 2008, p. 293). In a subsequent article, Robinson (2013) claims that while the armed conflict “exacerbated the country's problems”, it is itself a “symptom” of “the nation's style of governance” in which “national political elites residing in urban areas, particularly Bogotá, have effectively delegated the running of the countryside and other peripheral areas to local elites” (p. 44). The author identifies various “mechanisms” and “interests” that have contributed to the persistence of this “system of governance” in Colombia, noting that “it is not held in place by some grand Faustian pact or Machiavellian calculation, but has evolved over a long period of time” (Robinson, 2013, p.

47). A later article by Robinson advances these ideas further. Drawing on his 2012 book *Why Nations Fail*, co-authored with Acemoglu, Robinson (2016) concludes that violence and poverty (partially a result of high inequality) in Colombia are a result of the country's "extractive economic institutions", which in turn arise from its long-standing "extractive political institutions". According to Robinson, political and economic institutions in Colombia have become more inclusive in some respects, especially since the late 20<sup>th</sup> century (i.e. amidst the armed conflict!) but remain exclusive in others, especially in the "periphery". It is precisely the relationship between "centre" and "periphery", he maintains, that helps explain the peculiar co-existence of extractive and inclusive institutions in the country. Although the article is not focused on land grabs, Robinson uses the phenomenon to exemplify how certain elite "interests" contribute to the perpetuation of "extractive institutions" (Robinson, 2016, pp. 52–54)<sup>8</sup>. To reiterate my point: to truly understand land dispossession in Colombia, we must look beyond the armed conflict.

## **2) Analysing land dispossession from a critical political economy perspective**

This thesis analyses dispossession in Colombia from a critical, historical, political economy perspective. It examines, among other things, the different forms and complex mechanics of land dispossession, how and why dispossession and related policies have changed over time, what is distinctive about contemporary processes and how these have been shaped by the country's specific trajectory and vision of economic development. The analysis serves to challenge narrow accounts of dispossession in Colombia and mainstream explanations of the phenomenon more broadly. As noted above, the former treat dispossession as an abnormality of the armed conflict and/or downplay the importance of other factors. The latter suggest that dispossession arises in the absence of clearly defined property rights and a strong rule of law *or* that it is imposed by governments under exceptional circumstances for the wider 'public good'. A critical political economy approach highlights and attends to the deficiencies of explanations that minimise the importance of history, power relations, social struggles, ideology and the wider socio-political-economic context (see e.g. Chandhoke, 1994; Wood, 1995).

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<sup>8</sup> Acemoglu and Robinson's thesis (contained in their 2008 article, elaborated on in their 2012 book, and applied to Colombia by Robinson in the articles mentioned here) has multiple strengths and weaknesses. However, an evaluation of their arguments is beyond the scope of this thesis, which has a different 'object' of study. Acemoglu and Robinson's purpose is to explain differences in economic development, while my own work aims to explore the issue of land dispossession. Nevertheless, their research does offer some insight into coercive land acquisition, as indicated above.

Land dispossession has typically been investigated as an appendage to other issues, such as armed conflict, neoliberalism and imperialism (as in Harvey's analysis of accumulation by dispossession) or the historical development of capitalism (as in Marx's account of primitive accumulation and much of the 'traditional' literature on agrarian questions). This thesis, by contrast, puts dispossession at the centre of analysis. As such, it draws on, and contributes to, a growing area of research on land grabs or "the ways capital is seizing hold of land and natural resources" (Fairbairn et al., 2014, p. 656) - what Fairbairn et al. (2014) call the "third wave of dispossession studies", which they locate within the field of agrarian political economy<sup>9</sup> (p. 654). My arguments are also shaped by literature on issues often considered peripheral to agrarian political economy, mainly: (1) law, (2) eminent domain (3) and forced displacement.

Research on land dispossession, in particular that accomplished via extra-economic force, entails a specific set of questions (see also Levien, 2011, p. 457). Why is dispossession more or less prevalent in certain contexts? What are the underlying drivers and enabling conditions? How is dispossession enforced, by whom and for what purpose? How has the development of capitalism shaped dispossession, generally and within a particular context? Did a given coercive land acquisition enable capitalist development and in what way? This is not an exhaustive list. This thesis addresses such questions in the Colombian context, but also puts forward some more general tentative propositions about land dispossession.

Coercive land acquisitions are more common than some might imagine. Global figures on dispossession do not exist (among other reasons, because the variety of forms it takes obstructs statistical description) but evidence suggests it has affected millions of people across the world over the last few decades<sup>10</sup>. Furthermore, it is reasonable to assume that

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<sup>9</sup> As noted by the authors, this third wave arose around the mid-2000s in the context of 'the global land rush'. It "builds on" but is distinct from the "first generation of dispossession scholarship [in which] expropriation was largely seen as a historical stage in the development of capitalism" (p. 654). It is also close to, but distinguishable from, a second wave that emerged in the 1980s and brought conflicts over land and resources into focus (Fairbairn et al., 2014, pp. 653–656).

<sup>10</sup> 'Development-induced displacement' figures provide an imperfect indication. According to Cernea (1995), at least "ten million people *annually* enter the cycle of forced displacement and relocation in two 'sectors' alone- namely, dam construction, and urban/transportation" (p. 249, emphasis added). This estimate, he notes, was generated by researchers at the World Bank and "emerged from collecting, verifying and combining a vast body of data [... and it] is still conservative" (Cernea, 1995, p. 249). More recent calculations suggest that "large development projects such as dams, roads and exploitation of raw materials led to the displacement of least 300 million people between 1988 and 2008" (Terminski, 2012, p. 2). Suppose that just 10% of the displaced were dispossessed of land held individually or in common (the real percentage is probably higher), we are still left with a figure of circa 30 million dispossessed for 'large development projects' over 20 years.

the prevalence of dispossession will increase in the years to come (as demand for land and land-based resources continues to rise), unless the global political economy is radically transformed. The adverse effects of forcible land acquisitions (which often entail regressive redistributions of wealth) have been well-documented elsewhere, especially in the literature on ‘development-induced displacement’. For example, based on a review of all “World Bank-financed projects involving involuntary population displacement” from 1986 to 1994, Cernea identified eight “recurrent characteristics” -namely ‘landlessness, joblessness, homelessness, marginalization, increased morbidity, food insecurity, loss of access to common property and social dis-articulation’- that together constitute the “economic, social and cultural impoverishment”, which typically affects those dispossessed and displaced (Cernea, 1995, pp. 250–252). In sum, land dispossession is a social justice issue in-and-of itself, as well as being relevant to other (wider) pressing matters such as: poverty, inequality, forced migration, environmental degradation, State ‘fragility’, violence and armed conflict. Despite the real-world significance of land dispossession, related research is beset by theoretical stagnation that limits our investigations, discussions and understanding of the problem; hence, the importance of developing new concepts and propositions, with the ultimate aim of shaping broader debates outside academia.

While this thesis doesn’t aim to provide a theory of land dispossession, it is a ‘prolegomena’ to one. What would such a theory look like? First, the theory must articulate what land dispossession is, so that we know how to recognise it in dissimilar social, political, economic and legal settings. This definition could include a classification of varied kinds of dispossession. Second, the theory would identify the diverse causal factors and conditions that explain how and why land dispossession occurs in different contexts. Third, the theory would describe the potential effects of land dispossession and how these are influenced by varying contextual factors.

Why do we need such a theory? First, without it, it would be difficult to recognise the ubiquity of land dispossession, given the different forms it can take. Second, the theory would enable us to better explain how dispossession interacts with other facets of our global, regional and local political economies. Third, it would allow us to move away from the detrimental tendency to focus on the most obvious causal factors and to develop, instead, a more sophisticated understanding of the varied and contingent causal mechanisms of dispossession and how these play out in different contexts. Finally, such a theory could prove a useful tool for activists, organisations and sympathetic policy-makers struggling against land dispossession.

Another rationale for building critical theories of land dispossession rests upon its import for wider social scholarship, in particular critical political economy. Land is *the primary* means of production and subsistence – it is the ultimate source of almost all the material goods that we use in our everyday lives. In this sense, understanding how land and land-based resources are acquired and controlled (and dispossession is a central element of this) is vital to a comprehensive understanding of how our socio-economic systems function. Nevertheless, despite the efforts of political ecologists and ecological economists, land questions tend to be treated as a niche interest area. I hope to help subvert this tendency. As such, this thesis is not written primarily for a specialist audience, but with the aim of enriching broader debates within critical political economy, as well as literatures on dispossession and on Colombia in particular. As will become clear, many of the propositions contained in this thesis have wider implications for how we think about property, law, capitalist market economies and liberal democracy. It is unlikely that I would have developed these ideas had the focus of my investigation been the inverse. To really understand the role of land dispossession in our societies/economies, it is necessary to put the phenomenon at the centre of our analyses; starting from questions about (e.g.) armed conflict, the historical development of capitalism or the nature of neoliberalism or imperialism can only provide a partial view of the issue.

### **3) Key arguments and thesis outline**

Chapter 1 establishes the basic conceptual groundwork for the discussions that follow and outlines the scope of my research. It explains how the term ‘dispossession’ and other related vocabulary are used in this thesis and why I have chosen to link the analyses with forced displacement. It also introduces Marx’s concept of primitive accumulation and Harvey’s notion of accumulation by dispossession, which I argue provide valuable insights, but are inadequate for analysing land dispossession specifically.

Chapter 2 critically examines some key claims about land dispossession, divided broadly into those found in research informed by orthodox economic and liberal political/legal paradigms and those found in critical scholarship. I focus on claims about the relationship between dispossession and economic development or growth, capitalism, property rights, land markets and the law. Because land dispossession is a relatively nascent area of inquiry, the identification of these claims, sometimes only implied and dispersed in varied academic fields, was a central part of the research process. This work may be of use

to other scholars interested in dispossession and constitutes a contribution to the literature in itself. Chapter 2 is very much the outcome of my research, rather than its antecedent. It contains the main findings and conclusions of the project. Here, for reasons of space, I highlight only the more unusual ideas that are not addressed in the rest of this outline.

Mainstream economists suggest that dispossession is antithetical to capitalist economies in which competitive markets, based on private property rights, ensure an ‘efficient’ use and allocation of land. I argue, in contrast, that the capitalist land regime is laden with internal contradictions and that perpetuating growth based on capital accumulation relies on the violation and restriction (i.e. the exclusion of areas from privatisation) of landed property rights, as well as their imposition and enforcement.

On the one hand, economic growth driven by capital accumulation requires that land allocation and use be made to serve to these objectives - that it be treated as a commodity. And the imposition of private property and development/construction of land markets often comprises processes of dispossession. On the other hand, markets don’t always provide land in the right places and at the right price – relative, that is, to the demands of capital accumulation and growth. So, even once private property and markets in land are established, extra-economic force (dispossession and displacement) continues to be integral to capitalist development. Some governments have understood that the property system can encumber growth and have opted to impose it partially. State-owned lands permit the implementation of large-scale projects that in other contexts would have required the violation of property rights, implying higher compensation costs and lengthier legal processes. The role of property *violations* and *restrictions* in mobilising land for capital accumulation and growth is often overlooked even by critical scholars who tend to focus on privatisations and enclosures.

Chapter 2 also addresses the question: why is land acquired via coercive dispossession rather than voluntary market-exchange? Levien (2011), who is the only critical author I found that tackles this question head-on, concludes that extra-economic force is used to facilitate accumulation where “land markets are not fully capitalist” (p. 462-463). I argue instead that what he calls “barriers to accumulation” are inherent to capitalist land markets themselves. This does not mean land dispossession is a mere ‘function’ of capitalism; the character and prevalence of dispossession is contingent upon multiple factors and understanding it requires context-specific political economy analysis – indeed, this is the central theme running through Chapter 2. However, I also signal the importance of considering the wider capitalist system in which dispossession takes place.



Chapters 3, 4 and 5 examine the political economy of land and dispossession in Colombia, during the colonial era, the 1800s post-independence, and the 20<sup>th</sup> century up until the 1970s - respectively. As argued by Edelman, Oya and Borrás (2013), much of the recent literature on dispossession “neglect[s] the importance of history”, which forms “the spaces in which [today’s] land grabbing occurs” (p. 1521). Furthermore, a “historical perspective permits [...] a greater appreciation of the specificity that may characterise contemporary land grabs in general and certain land grabs in particular” (Edelman, Oya, & Borrás, 2013, pp. 1521–1522). These comments closely reflect my own reasons for including an analysis of past processes: to enable a more profound understanding of the political economy of land in 21st century Colombia and to identify what is distinctive about contemporary dispossession and how this has been influenced by the country’s trajectory of economic development.

The historical narrative in this thesis is unique in that it is written through the lens of dispossession and associated displacement. I pay particular attention to the different forms they take, the relationship between the two, the political/economic drivers and motivations behind these processes, as well as how land grabs enforced by private agents interact with policy/law and the factors that shape these interactions. This allows me to explore how and why dispossession and displacement and related policies changed over time. Four themes run through these chapters, supporting some broader arguments and ideas.

(1) In Colombia, labour control was central to many policies and practices of dispossession and displacement from the 16<sup>th</sup> to the early 20<sup>th</sup> centuries. This contrasts with contemporary land grabs, which are primarily aimed at controlling the land itself and related resources, with little concern for the labour power of the dispossessed or the destination of the displaced. Thus, these chapters include evidence for one of the tentative propositions put forward this thesis: that dispossession *motivated* by labour acquisition tends to decline as capitalism develops, while dispossession driven by interest in the land and related resources tends to increase. This has implications for analyses informed by Marxist concepts, many of which tend to overemphasise proletarianisation to the detriment of other issues, and some of which conflate potential outcomes with drivers by implying that dispossession occurs *because* capitalist production requires wage labourers.

(2) The historical chapters also reveal the complexities of how dispossession interacts with policy and legislation. Contrary to mainstream liberal views, which often represent the legal realm as neutral, the analysis suggests that the contents, interpretation and application of the law are shaped by specific trajectories and visions of economic

development, as well as changing power dynamics, social struggles and the pressures/constraints faced by the government. Here I provide a few examples. Both the colonial and post-independence governments legislated against *private* land grabs, but elite groups consistently flouted these norms and the government eventually legalised unofficial land appropriations ex-post facto. For the colonial administration, one main reason was fiscal: it could charge wealthy individuals a fee for legalisation. The independent government, for its part, buckled under pressure from the landed elite. Ironically, it was the first agrarian reform legislation of the 20<sup>th</sup> century that endorsed historical land theft. Political will to address previous and ongoing dispossession, and resulting land concentration, had been particularly strong during the period running up to this reform. These processes threatened to undercut smallholder production, which was supporting industrialisation. Nevertheless, multiple factors pushed government policy towards the promotion of large-scale industrial agriculture, gradually weakening the *economic* rationale for attempting to prevent/reverse dispossession.

(3) Another key proposition is that private property in land can both empower and impede economic growth; the latter part of this statement is generally overlooked by orthodox and heterodox theorists alike. All three historical chapters provide evidence of the tension between property rights and capitalist and non-capitalist forms of development. Ever since the Spanish invasion, elite groups started amassing property claims over huge areas of land, which they left un- or under- used. Colonial officials and politicians post-independence repeatedly commented on, and devised legislation/policies to address, the economic problems caused by property institutions that allow for speculative accumulation. However, with a few exceptions, across the centuries, governments have been reluctant to use their taking powers against elites. As suggested in Chapter 2, because of unequal power dynamics, dispossession -including via State sanctioned violations of property rights - is more likely to affect 'labouring classes'.

(4) Finally, these historical chapters illustrate the diverse underlying drivers and outcomes of dispossession and associated displacement. I argue that, *on the whole*, land grabs by elite groups did not favour economic development nor the expansion of capitalist social relations in Colombia and in some ways hindered these processes throughout most of the period under consideration. I also argue that a crude application of the primitive accumulation concept (to infer conclusions rather than devise questions) to these processes may obscure our understanding of Colombian history. For example, varied policies and practices of dispossession and displacement, from colonial times up until circa the 1920s,

were motivated by elite interest in appropriating surplus labour from the direct producers but the dispossessed were largely drawn into *non-capitalist* relations of production. Furthermore, in the *early* 20<sup>th</sup> century, the smallholder economy -which the traditional landed elite sought to undermine via land grabs and evictions, among other methods- was financing, stimulating and sustaining the country's industrial development. The political economy of dispossession and displacement in Colombia started to change around the 1930s/1940s in various ways and for multiple reasons. For example, with government assistance, many large landowners established mechanised crops on arable flatlands formerly used for extensive cattle ranching -cleared of tenants and peasant settlers in earlier epochs. In other words, property claims that had long stymied economic development now supported a rapid expansion of exchange value, at least in some regions. Agribusiness growth also stimulated new processes of dispossession - stirred by a drive to expand profits within a capitalist system of production, rather than to subjugate peasants to the 'semi-servile' and relatively 'inefficient' hacienda.

These same four themes also run through chapters 6, 7 and 8, which focus on recent history (since the 1980s) and the contemporary era. Nevertheless, given the emphasis of this thesis, the contents of these chapters are much broader and deeper. Chapter 6 provides the context necessary for understanding and explaining dispossession in contemporary Colombia. It pays particular attention to the country's specific trajectory and policies of economic development (plus related power-dynamics and conflicts), which I argue have fundamentally shaped these processes. Here I provide a skeletal outline.

Following trade liberalisation and the shift towards export-oriented growth, the economic rationales (e.g. to control food price inflation, boost internal demand, or ensure a domestic supply of raw materials for urban industries by supporting smallholder production) for attempting to halt and reverse dispossession and associated property accumulation disappeared from the policy agenda. While the 1994 agrarian reform law strengthened regulations designed to limit land concentration, government policy has remained biased in favour of large-scale agribusiness. Furthermore, since 2007, successive administrations have attempted to quash the *pro-campesino* rules in the 1994 law. Reinigorated interest in agriculture as an 'engine of growth' gave impetus to the ongoing legislative counter-reform. This includes proposals to 'forgive and forget' historical legal violations and complements (alongside subsidies and other policies aimed at boosting agribusiness) land grabs executed by paramilitaries and their backers, as well as grey-area land acquisitions in the conflict-context.

The chapter discusses norms established through the 1994 agrarian reform law and the 1991 Constitution, which are important for understanding the ‘mechanics’ of dispossession discussed subsequently. Given that much of the literature on dispossession emphasises the enabling role of legislation, Colombian land law is not what some might expect. Contemporary laws have countless shortcomings and enable dispossession in many respects but compared to previous eras and other countries they are also relatively ‘progressive’. For example, while other governments were deregulating in ways that facilitate large-scale land acquisitions, Colombia actually strengthened regulations that *should have* prevented wealthy individuals and businesses in particular from benefitting from the dispossession/displacement of *campesinos* who occupied or owned certain types of land. These norms are now being slowly dismantled; however, it is noteworthy that the most recent phase of dispossession peaked while they were still formally in force. The poor enforcement of these and other rules cannot be blamed simply on a weak rule of law; it reflects unequal power dynamics and the State’s vision of development – in short, the political nature of the legal realm.

Meanwhile, Colombia’s growing reliance on the mining and energy sectors has had enormous implications for the State’s land use priorities, which in turn impacts on the political economy of dispossession. Oil and mining companies not only benefit from coercive land acquisition, they often *require* it – as a whole, these sectors are reliant on the State’s taking powers. I examine the legal underpinnings of dispossession and the central government’s attempts to inhibit popular consultations and municipal regulatory power, which have been used to block these investments. Thus, I also point to the contradictions and conflicts that arise from the State’s role as facilitator of capital accumulation.

Chapter 6 also offers an overview of the armed conflict since the 1980s, limited to highlighting dynamics vital for understanding the latest phase of dispossession. This includes the expansion of paramilitary groups, which worked in collaboration with government forces, were supported by diverse elites and primarily targeted civilians deemed ‘subversive’. It should be stressed that counterinsurgency has been as much a political, economic and social undertaking as a military mission.

In addition, the chapter contains a brief discussion on the rise of the illicit drug economy and the associated ‘War on Drugs’ and how this shaped the armed conflict and the political economy of land in Colombia. Among other points, I argue for a conceptual distinction between the narco land rush and the para-elite land grab. Many land acquisitions by narcotraffickers, especially in the 1980s, involved purchases from large landowners at

inflated prices, rather than the dispossession of smallholders. Also, while narco-paramilitaries clearly participated in the para-elite land grab, which took off in the 1990s, an overemphasis on their role runs the risk of obscuring the importance of other elite actors and thus reproducing oversimplified accounts that reduce land grabbing to a problem of the criminal underworld.

Chapters 7 and 8 provide a bird's eye view of dispossession and related displacement in Colombia during the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. Chapter 7 examines (a) the usurpation imposed by the para-elite, plus (b) grey-area land transfers facilitated by the conflict context; while Chapter 8 discusses dispossession for investment projects backed by the State's taking powers, including those broad categories mentioned above (a and b), as well as (c) coercive land acquisitions directly endorsed by the State and other types of involuntary land loss. My main objective is to identify varied forms and mechanisms of dispossession, which helps illustrate *how* these processes occur and provides support for some broader claims.

First, by examining the different mechanisms of the para-elite land grab, I demonstrate the importance of multiple factors and groups of people in enabling dispossession and hence why what happened in Colombia does not fit with simplistic notions of war-time plunder. The usurpers depended on the connivance and/or collaboration of politicians, members of the Armed Forces, notaries and registrars, and functionaries of the agrarian reform and rural development agency, among others. Arguably, without this 'social capital', the para-elite would have been unable to legalise their usurpations; at the very least, the scale of the phenomenon would have been limited.

Second, a detailed look at the mechanics of these processes reveals that, contrary to accounts that pin dispossession in conflict contexts to the break-down of State institutions, the para-elite manoeuvred within the legal system to secure the lands they usurped. Similarly, other individuals and businesses were able to profit from the forced displacement crisis precisely because they could gain titles over the land they purchased. In short, both depended on the continued operation of property institutions rather than their collapse.

Third, the discussion helps reveal why 'technical fixes' are inadequate for addressing dispossession. For example, titling and registration programs are frequently presented as preventative solutions to involuntary land loss. While it is true people without legal title are more vulnerable to dispossession, the para-elite were adept at legalising the usurpation of privately-owned lands and even found ways to legitimate the occupation of territories

under inalienable collective titles. On another level, the government passed a number of laws to protect the displaced against dispossession that in many instances failed to achieve their objective; this has as much to do with power relations and structural inequalities as policy design failures. Other rules that theoretically prohibited elites from exploiting the usurpation or abandonment of 'reform lands' were also ineffective for related reasons.

Fourth, the analysis of different forms and mechanisms of dispossession provides insights into the varied relationships between these processes and displacement. As noted earlier, so-called conflict- and development- induced displacement are not always easily distinguishable; this is particularly interesting given that the former is usually deemed inimical to economic growth and development, while the latter is represented as a necessary cost of the same objectives.

Fifth, in detailing the varied legal mechanisms of dispossession, I am able to better elucidate the role of property rights violations and restrictions in securing land for large-scale investments. I stress that the suspension of free markets is not always immediately obvious since many agreements that appear voluntary are in fact guaranteed by the State's taking powers. This permits companies to acquire land at otherwise impossibly low prices – constituting a socially regressive redistribution of wealth, just like the para-elite land grab and many grey-area transactions in which buyers profited from the displacement crisis.

Finally, the presentation of various 'typologies', in addition to being convenient for analytical purposes and helping to uncover the complexity of the dispossession process and the variety of forms it can take, enhances understanding of how 'legal' and 'illegal' mechanisms of coercive land acquisition interlink. This is most obvious in cases where the para-elite land grab aided State-backed investments that in other circumstances would have been imposed through a legal process and using government force.

More broadly, I argue that counterinsurgency has been partially constitutive of agrarian counter-reform and helped advance the elite-led development promoted by successive administrations. The government's agricultural policies indirectly encouraged and enabled the para-elite land grabs, as well as opportunistic/predatory acquisitions in the conflict-context. And many of the land use changes brought about via dispossession have been consistent with the government's economic goals. Moreover, armed conflict has expedited land clearance in zones slated for mining, oil and infrastructural investments sanctioned by the State's taking powers and provided a pretext for violence against people opposing these projects.

Social movements, activists, and some critical scholars have long pointed to the close links between dispossession in Colombia and the country's economic development model; but the issue has not been systematically analysed. Even in contexts where the relationship between certain growth strategies and dispossession/displacement has not been obfuscated by armed conflict, there is a reluctance among many policymakers and academics to recognise the contradiction between condemning the harm caused by these processes while promoting the policies and underlying ideologies that impel them. Economic development, often simply a euphemism for growth driven by capital accumulation, is rarely seen as part of the problem and is frequently presented as part of the solution, alongside titling and registration programs and legal reform. But without substantial changes to conventional views on how to foster wellbeing, without challenging structural inequalities and unequal power relations, the latter 'solutions' are only likely to transform the problem. The same can be said of efforts to end violent conflict, in particular programs focused on the economic foundations of peacebuilding. As Coleman (2018) forcefully put it: in Colombia "the model of development advocated in the name of 'peace' is the very model for which people were massacred in the first place" (p. 23).

#### **4) Methodological approach, methods and the research process**

This thesis is based on qualitative exploratory research. Exploratory research should not be understood in narrow terms as a pilot study or the first stage of inquiry, but rather in juxtaposition to "confirmatory research", which aims to "test hypotheses" drawn from established theory (Stebbins, 2001, 2008; Davies, 2006; Reiter, 2017; see also Coleman cited in Swedberg, 2018, p. 14). Davies (2006) explains: exploratory research involves a "flexible and pragmatic" approach and is "concerned with the development of theory from data in a process of continuous discovery" (p. 2). It "aims to be as broad and thorough as possible" and is open-ended in the sense that there is no goal to search for something specific (Stebbins, 2001, p. 3). As such, exploratory research typically results in multiple findings and propositions (*ibid*), rather than centring upon a single overarching conclusion.

Since "there is no a-theoretical perception of the world [...] a pure exploration, starting from zero, is impossible" (Reiter, 2017, p. 137; see also Sayer, 2010). As noted above, I examine land dispossession from a critical political economy perspective and draw specifically on Marxist concepts; this necessarily shaped the scope and emphasis of the research and analyses. However, I did not start with a clear set of hypotheses nor with the

aim of evaluating a particular theory. Instead, I developed the claims of this thesis by studying the phenomena in question in their specificity. In keeping with the ‘flexible’ nature of exploration, the contents of this thesis are quite different to how I had initially imagined.

My decision to pursue exploratory research was not an immediate conscious choice. I knew that my main objective was to better understand land dispossession in Colombia - especially the different forms it takes and how it happens- and that I wanted to link my findings to studies of coercive land acquisitions in other parts of the world. I also knew, as noted above, that I didn’t want to focus on a particular theory, partly because of an absence of theories adequately linked to my research interests. In many ways, this was an anxiety-filled exercise because I believed I *should* have been trying to refute or confirm a particular theory. Indeed, the research design and methods texts I read (and courses I attended) typically assume the researcher starts out with a theory or hypothesis<sup>11</sup>. It was only later I found authors advocating the advantages of open-ended investigations and giving this a name: exploratory research.

Many texts classified as belonging to the ‘land grab literature’ are in fact about the recent global land rush, not coercive dispossession per se. Unfortunately, it took me a long time to accept that some of the most cited scholarly publications (supposedly) in my field weren’t directly relevant to the research I was doing; initially, I felt they had to be relevant because these were the articles land scholars were discussing. Additionally, many of the publications I encountered that *were* more focused on dispossession included excellent case studies and analyses of local processes but contained little or no explicit discussion of broader conceptual and theoretical issues<sup>12</sup> other than perhaps a brief reference to Marx’s concept of primitive accumulation or Harvey’s accumulation by dispossession. I gradually realised that many of us (I include myself here) have over-relied on these concepts and that this has been generating a theoretical inertia. Eventually, I came to the further conclusion that there are no *explicit* theories of land dispossession, nor structured debates on the issue (compared say to armed conflict or economic development); I would have to unearth mostly

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<sup>11</sup> My experience echoes Swedberg’s (2018) assertion that “textbooks on methods do not discuss exploratory studies; and students are not being taught how to carry them out” (p. 17).

<sup>12</sup> Levien’s work on India is the clearest exception to this generalisation: it is both empirically *and* conceptually/theoretically rich. Unfortunately, I didn’t come across his writing until quite late in the PhD process (it would have helped me enormously had I read it sooner), when by a stroke of luck someone recommended it to me. Upon reading a couple of Levien’s publications, I immediately felt identified, not because I agreed with all his arguments, but because I felt he challenged the conceptual/theoretical inertia affecting ‘dispossession studies’.



implicit claims, dispersed across varied fields of inquiry, in order to situate my findings within a broader literature. I reached the latter conclusion, it is worth noting, towards the end of the research process, after I had done most of the empirical work for my project.

The dearth of theoretical work on land dispossession posed problems for my research design. As noted above, in my experience, most courses and texts are geared towards ‘confirmatory’ research. For example, Odell’s (2001) overview of case study methods in international political economy examines: the “preliminary” illustrative case study, aimed at illustrating a theoretical idea; “the disciplined interpretive case study”, aimed at systematically “applying a known theory” to a “new event”; “the least-likely (theory-confirming) case study”; “the most-likely (theory-infirming) case study”; and “the deviant case study” or “a case where the main causes were present but the expected effect did not occur” (pp. 163-167). All of these case study designs start from the assumption that there is an existing theory the researcher wishes to illustrate, apply, reject or refine. The author mentions just two types not founded upon pre-established theory: “descriptive” and “hypothesis-generating” case studies. The former, he argues, “aims only to document an important event”, while the latter is not explained in detail – the reader is simply referred to a couple examples (Odell, 2001, pp. 162–165). As noted by Gerring (2011):

social science research involves a quest for new theories as well as a testing of existing theories [...] Regrettably, social science methodology has focused almost exclusively on the latter. The conjectural element of social science is usually dismissed as a matter of guesswork [...] Yet, it will readily be granted that many works of social science, including most of the acknowledged classics, are seminal rather than definitive. Their classic status derives from the introduction of a new idea or a new perspective that is subsequently subjected to more rigorous (and refutable) analysis (Gerring, 2011, p. 9; see also Swedberg, 2018, who discusses the historical importance of exploratory studies in sociology specifically and the scarcity of publications on related methods and research design).

The generation of novel concepts/theories is precisely one of the main aims of exploratory research. For example, writing on exploratory case studies, Streb (2010) explains: these “are generally distinguished by the absence of preliminary propositions and

hypotheses. Identifying these very often is the actual purpose of the study instead of being its origin” (p. 3). Swedberg, for his part, identifies two main objectives of exploratory studies: “The first is to increase the knowledge of a topic that is little known [...] The second is to generate new and interesting hypotheses about a topic that is already known” (Swedberg, 2018, pp. 12–13; see also Stebbins, 2001, 2008; Davies, 2006; Streb, 2010). In practice, many “topics” lie somewhere in between being “little known” and “already known”; arguably, this is the case of land dispossession in general and in Colombia specifically. My own research aimed to both further understanding of coercive land acquisitions in Colombia and to develop new tentative propositions about dispossession more generally, which I hope may inspire or inform future inquiries - including those designed to rigorously ‘test’ these propositions.

An additional factor that shaped my methodological choices is the absence of comprehensive ‘data sets’ on land dispossession in Colombia. We simply do not know with any certainty how much land and how many people were dispossessed in which parts of the country, when, by who, how and for what purposes. In terms of dispossession in the context of the armed conflict specifically, I have already discussed the problems with attempting to establish quantitative characterisations of the phenomenon using existing IDP surveys or land restitution data. In chapters 6, 7 & 8 I also refer to the difficulties of ‘quantifying’ land dispossession more broadly; among other reasons, because of the variety of forms it can take and associated conceptual ambiguities – something I have tried to address in this thesis. For example, I discuss problems with accessing information on expropriations (in the technical/legal sense of the term) due to the large number of entities invested with this power, and also point out why such figures -even if they were readily available- would not be indicative of State-backed dispossession given that sales coerced under the threat of expropriation (which on paper appear as ‘normal’ voluntary market transactions) are evidently more common, partly because Colombian law requires that firms attempt private negotiations before soliciting government intervention. In sum: the lack of prior conceptual disentanglement and absence of relevant ‘data’ precluded certain research designs and methods, whilst indicating the expediency of a broad and adaptable investigation.

A number of authors have commented on the misconceptions surrounding exploratory research (see e.g. Stebbins, 2001; Davies, 2006; Streb, 2010), which partially derive from attempts to impose the norms of confirmatory studies on exploration, which has very different aims. The “intuitive”, “flexible” and “open-ended” nature of exploratory research account for the advantages of such an approach, as well as its limitations; while

above-mentioned characteristics are usually not desirable if a study contends to ‘test’ a proposition, they are precisely what is needed for the development of new concepts and ideas. The defining qualities of exploratory research do not imply a lack of rigour; they imply understanding ‘rigour’ in a way that is attuned to the aims of exploration.

During the research for this thesis, I sought to ‘triangulate data sources’<sup>13</sup> wherever possible. I searched for documentary evidence to complement interviewee’s descriptions of processes or issues and vice versa: I asked relevant people about events, policies and laws I had come across during desk-based research. More generally, I consulted as many sources as possible, such as: restitution sentences, Constitutional Court writs, different laws and policies, documents from INCORA or INCODER (the agrarian reform institute, later rural development institute) and the regional environmental authorities (*corporaciones autónomas regionales*), reports by the Comptroller’s and Ombudsman’s Offices or the Superintendent of Notaries and Registries, NGO publications, corporate press releases, documentary videos, newspaper articles and academic papers. This is not an exhaustive list. I frequently found inconsistencies not only regarding (e.g.) how a particular case of dispossession was portrayed, but also in the so-called ‘facts’. Sometimes, I could determine that a particular inconsistency was a typo or otherwise identify the error and its origins; otherwise, I qualified my claims or simply excluded the contested ‘fact’.

The exploratory research on which this thesis is based is best described as an ‘iterative process’ in which issues and ideas arising from secondary readings, primary documentary investigation and fieldwork/interviews shaped -but did not limit- questions for the following round of inquiry. (Note that the writing process for this thesis was perhaps quite unusual in that the literature review and conceptual framework was one of the last chapters I completed.) This iteration often involved going back to the *same* source a number of times or re-reading texts with different concerns in mind. It also implied that there was no rigid separation between the so-called ‘data collection phase’ and ‘data analysis phase’.

The iterative process underlying this thesis is sometimes identified with “emergent design [which] involves data collection and analysis procedures that can evolve over the course of a research project in response to what is learned in earlier parts of the study”

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<sup>13</sup> As explained by Rothbauer, there are multiple types of “triangulation” in qualitative research. “Triangulation of data sources”, specifically, may help the researcher “increase the credibility of their findings by drawing from evidence taken from a variety of data sources [... such as] interviews, participant observation, written documents, archival and historical documents, public records, personal papers, and photographs. Each type of source of data will yield different evidence that in turn provides different insights regarding the phenomena under study” (Rothbauer, 2008, p. 4)

(Morgan, 2008, p. 2). This is clearly apposite for exploratory studies, given that “emergent design procedures are closely associated with the broad goal of induction [... and] generating theories and hypothesis often depends on a flexible use of methods” (*ibid*).

My decision (albeit not well-articulated until quite late in the research process) to pursue exploratory rather than confirmatory research implied multiple trade-offs. Most obviously: I chose to favour the development of new ideas and a comprehensive understanding of land dispossession in Colombia over the testing of established ones and a precise description/explanation pertaining to a specific aspect of the same phenomenon. The reasons for this choice have already been articulated in the preceding paragraphs. Here I focus on the implications.

The first implication is that the general propositions put forward in this thesis must be treated as tentative<sup>14</sup>. For some readers, this admission may be off-putting; academia, arguably, has an inbuilt antipathy towards the tentative and this could influence the reception of my work. However, the very same qualities of my research that proscribe unreserved theoretical generalisations are precisely those that allowed me to develop a deep and broad understanding of dispossession in Colombia and to use this understanding to refine concepts and to play around with and articulate original ideas. The latter simply would not have been possible had I focused on a few specific aspects of the phenomenon, or a particular ‘hypothesis’ or ‘theory’, defined in advance. On this issue, I would like to reiterate three points, made by the various authors (cited in this section), albeit in different ways and from different perspectives: (1) many of the hypotheses ‘tested’ via strategically designed confirmatory research originate in exploratory studies; (2) though confirmatory studies can lead to new hypotheses, the associated methodological approaches are ill-suited to the task, just as exploratory research is -by definition- ill-suited to ‘test’; (3) the repeated ‘testing’ of the same hypotheses -no matter how sophisticated the methodological design- cannot on its own ‘advance’ the collective endeavour of social research.

Second, and related to the above, while exploratory research led me to multiple claims about dispossession in contemporary Colombia, it did not allow for the generation of ‘killer facts’<sup>15</sup> to complement and strengthen these claims and that are useful for advocacy work.

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<sup>14</sup> Arguably most social knowledge claims are tentative, even those ‘rigorously tested’ via research designed for the purpose. Still, some claims have been subjected to systematic scrutiny of different forms – others have not. So, we might say some claims are more or less tentative than others.

<sup>15</sup> The term ‘killer fact’ is borrowed from [this article](#) in the Oxfam Blog *From Poverty to Power*.

An example to illustrate my point. I found that government policies indirectly incentivised and facilitated dispossession. Multiple pieces of evidence -(e.g.) various cases in which the usurper or predatory buyer received State subsidies for agricultural or forestry projects, criminal proceedings and media-interviews in which the perpetrator or beneficiary of dispossession/displacement discusses how such policies influenced their decisions, or official documents discussing ongoing legislative changes aimed at fostering industrial agriculture that make it easier to legalise claims over land obtained through illicit and violent means - support this assertion. However, I cannot say (e.g.) how much public money was pumped into investments in ill-gotten land nor how many companies/individuals involved in violent land grabs or opportunistic acquisitions received subsidies. When 'killer facts' are not already publicly available, obtaining or generating them (supposing its feasible, which for some types of information it isn't) requires dedicating a lot of time and resources to this end, a specific research design and methods and -above all- knowing what one is looking for in advance. It should be noted that such 'fact-finding missions', like studies aimed at 'testing' a particular theory, often benefit from the groundwork established by exploratory research, such as that presented in this thesis.

Third, as hinted at earlier, exploratory research typically results in multiple and diverse findings and ideas rather than a single overarching set of principles; this is certainly the case of this project. This has multiple advantages and disadvantages; for example, it complicates 'research engagement' in many respects but the diversity of contents also means the thesis (or at least aspects of it) is likely to be relevant to comparatively more readers. More generally, my research and writing sacrifices theoretical elegance and simplicity in favour of breadth, depth and complexity. This trade-off is largely a result of the choice between confirmatory and exploratory research. However, it also reflects my preference for a particular conception of causation in the social realm (see below) and indicates a theoretical priority: the need to be right about the complex specifics of a particular case before one can try to make generalisations.

Stebbins (2001) associates exploratory research with positivism (pp. 10-11), but the approach is also compatible with critical realism (Reiter, 2017). Broadly, critical realists share the basic ontological position that "much of reality exists and operates independently of our awareness or knowledge of it" and the basic epistemological position that "our knowledge about that reality is always historically, socially and culturally situated" (Archer et al., 2016; see also Sayer, 2010). This is the "meta-theoretical position" (*ibid*) that underpins this thesis.

Many critical realists also have a particular view of causation in the social realm. They focus on how and why a particular phenomenon unfolds or the ‘causal mechanisms’ behind it and privilege complexity and contingency in their explanations (Archer et al., 2016; Sayer, 2010). This implies an emphasis on *process(es)*, as opposed to the “regular associations (or ‘constant conjunctions’) of causes and effects” notion of causation (Sayer, 2010, p. 73). As argued by Sayer (2010), both the ‘activation’ of a particular causal mechanism and its ‘effects’ are contingent on the presence of certain conditions. Furthermore, ‘processes of change’ usually arise from the interaction of a variety of different causal mechanisms. Finally, “depending on conditions, the operation of the same mechanism can produce quite different results and, alternatively, different mechanisms may produce the same empirical result” (p. 73). Arguably, this conception of causation is necessary for understanding and explaining land dispossession.

Qualitative case study research is well-suited to the study of *processes* and is able to bring complexity and contingency into the analysis (Gerring, 2011; Odell, 2001). The term ‘case study’ can imply a number of different things. Broadly, it is “an empirical inquiry that investigates a contemporary phenomenon in depth and within its real-life context” (Yin, 2009, p. 18). Country-level studies are especially useful for examining land dispossession given the importance of national legislation and policy in shaping these processes. My reasons for choosing Colombia as a ‘country case’ are personal and pragmatic. I do not suppose my findings are ‘generalisable’ to other country-contexts. I do believe, however, that by means of example, it is possible to shed light on wider issues. The empirical claims in this thesis may be useful for future research that compares and contrasts processes of dispossession in other parts of world, while -as noted above- theoretical claims are advanced as tentative propositions, requiring further investigation.

Of course, within Colombia itself dispossession varies across space and time. I had originally intended to build this thesis around three regional/local studies; what is sometimes called a “case within a case” research design (Gondo, Amis, & Vardaman, 2010). I did in fact investigate three different ‘cases’<sup>16</sup> *in detail* (I also examined dozens of other

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<sup>16</sup> What constitutes a ‘case’ is not always straight-forward. For example, a single family’s story of involuntary land loss could be considered a case of dispossession. However, it also makes sense to consider the processes affecting, for example, the inhabitants of Marmato or Jiguamiandó and Curvaradó as ‘cases’ of dispossession, given that one company or group of inter-linked companies and people (respectively) attempted to (or effectively) procure(d) large areas of land using extra-economic force for a single project or set of related purposes. Such local ‘cases’ are made up of dozens of individual ‘cases’, which are nonetheless ‘bound’ by multiple factors, rather than being isolated or separate processes. The ‘case’ of the oil industry in Putumayo is different; I would not call this a ‘case’

'cases' in comparatively less detail): attempts to dispossess and displace thousands of people for an open-pit gold mine in Caldas; on-going dispossession and displacement related to oil operations in Putumayo; and the usurpation of collective territories in Chocó by paramilitary-backed palm oil businesses. However, when it came to 'writing up', for reasons of space, I faced an extremely difficult choice between including these 'cases' or an extensive historical discussion. I opted for the latter because it allowed for the inclusion of a greater number of theoretical claims that arguably make the thesis more unique. Still, a close examination of these specific places/processes definitively shaped my research and this thesis, as explained in subsequent pages.

This decision to exclude detailed discussions of these three regional/local experiences from the thesis was not taken lightly. I anguished at the thought of not incorporating the stories of the people I interviewed for the simple reason that I felt/feel an ethical duty to share their testimonies. I also felt exasperated given the amount of work I put into understanding (and drafting written accounts of) what happened in these localities. Beyond these more personal concerns, I am conscious that leaving these 'case studies' out weakens the thesis in various respects. Most importantly, it implied a thinner description of the evidence on which many of the ideas and arguments in this thesis are based. Furthermore, arguably, the eliminated (draft) chapters would have allowed the reader to better 'connect' with the real people, places and events that inspired this thesis, making it more powerful.

However, removing the three historical chapters (which, given various constraints, was the only practical alternative) would have entailed omitting key arguments and ideas, which contribute substantially to the originality of the thesis. It is perhaps worth mentioning that I had originally intended to write just one historical chapter; however, as research for this element of the thesis progressed, I became increasingly convinced that an in-depth analysis of past processes offered different and important insights into the political economy of land in present-day Colombia. Put differently: the secondary historical research I did for this thesis really transformed how I think about land dispossession (in general and in Colombia specifically), something I hope is transmitted in the thesis itself.

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of land dispossession, since we cannot speak of a set of processes, driven by one company or group, that affect all inhabitants of the region. However, a study focused on involuntary land loss within Putumayo could reasonably be called a 'regional case study' in the sense that diverse processes of dispossession in the department are shaped by shared particularities. In effect, I learnt about various 'cases' of dispossession in Putumayo, affecting single families, as well as entire villages.

The three historical chapters are based on a variety of academic sources. A limited number of government documents and digital newspaper archives were also consulted for Chapter 5, which covers the 1920s-1970s. My understanding of more recent 20<sup>th</sup> historical processes, such as the expansion of the agrarian frontier to the south and the development of the armed conflict within specific regional contexts, has also been shaped by interviews and informal discussions with people who lived that ‘history’ first-hand.

Clearly, my reliance on secondary sources for the historical analysis is a limitation. However, conducting primary investigation for the history chapters would have meant sacrificing time spent researching the contemporary era and, given the latter is the focus of this thesis, I do not believe this would have been a reasonable trade-off. In order to strengthen the reliability of the analysis presented in chapters 3-5, I consulted numerous publications and especially favoured those with direct quotations from archival materials. Furthermore, I sought to identify disagreements or inconsistencies (and to convey these in my own writing) and to be transparent about gaps in historical knowledge and how these affect my conclusions (i.e. by qualifying them as needed). My analysis of these historical sources was done in the spirit of exploration described earlier. Though, of course, this analysis was shaped by pre-existing concepts, I did not set out to ‘test’ a particular ‘hypothesis’. Furthermore, I was open to evidence that weighed against my ‘conceptual baggage’ (as any good researcher should be). To give just one example: even though it was never my aim to apply Marx’s notion of ‘primitive accumulation’, it influenced my reading and, in the early stages, I felt quite dismayed when I found out how ill-suited the concept is to Colombian history; I faithfully reported this ‘finding’ despite being concerned that my thesis might be read as an attack on this concept, which it wasn’t meant to be - just as it wasn’t designed to advocate for it either.

As discussed earlier, the three chapters covering the contemporary period draw on - among other sources- scholarly publications, NGO reports, newspaper articles, a mixture of countless government documents (laws, court rulings, reports from the Comptroller’s and Ombudsman’s offices and the Superintendent of Notaries and Registries, etcetera) and interviews/fieldwork. The latter deserve special attention and consideration here.

Fieldwork allowed for access to information and perspectives not available in the documents, thereby enriching the contents and analysis of this thesis. As argued by Cawthorne (2001), interview research is a fundamental tool for anyone trying to understand social and economic processes, but especially those scholars who identify with *critical* political economy. While there is nothing wrong with using statistical data (e.g. gini



coefficients, GDP growth rates), this should not be the sole basis of our arguments, according to Cawthorne. Not only does “unpeopled research” reproduce intellectual “alienation”, it is also less likely to challenge the researcher’s preconceptions the way that fieldwork does and is unable to generate a nuanced and realistic descriptions (Cawthorne, 2001, pp. 68–87). In what follows, I use a more narrative style to briefly describe the fieldwork (and desk-based case research) that underlies this thesis.

Primary research has vitally defined this thesis in ways that may not be immediately obvious to the reader. I only began to understand *how* dispossession happens and the varied forms it takes by engaging with diverse people, especially those dispossessed or resisting involuntary land loss. For example, it was after listening to people from Nasa communities in Putumayo that I started to think about prior consultation as a mechanism of dispossession and how armed conflict impacts upon this process. Similarly, I would not have thought of oil infrastructure easements as a form of dispossession were it not for meeting people whose livelihoods were partially destroyed as a result of the associated impacts. Based on what people told me about their experiences, I started looking into relevant government policy, legislation and other documents - putting the puzzle pieces together.

Given the exploratory nature of my research and difficulties with access, the selection of field work sites and informants/interviewees was relatively open-ended. I knew from the beginning of the project that I wanted to examine dissimilar instances of dispossession, involving varied types of investment-interests and in areas with different ‘levels’ of violence. I also knew that I was most interested in listening to people who had been dispossessed or were threatened by dispossession<sup>17</sup>. However, the specifics of where and who were determined by my contacts, people’s ability and willingness to get involved, and other factors mostly outside my control.

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<sup>17</sup> This has obviously influenced the perspective and contents of this thesis. A project focused on the viewpoint of different functionaries, investors or their employees would clearly read differently. My decision to mostly interview people affected by dispossession reflects the focus of the project, but also practical concerns. It became clear that being ‘seen with’ certain characters could affect my engagement with others and might even bar access outright due to high levels of mistrust. Though I did not go out of my way to interview public servants, company representatives, or other people involved or with stakes in coercive land acquisitions, I didn’t pass up opportunities when they arose. While observing the aftermath of an oil spill, an engineer working for one of the companies happened to arrive; I told him why I was there and asked him as many questions as I could in a short space of time. In this case, my companions actually informed me afterwards that this was a risky/problematic thing to have done. On another occasion, I spent a couple hours talking with someone who worked for the Ministry of Interior. These are just a couple examples. Finally, I did actively seek webpages, documents and videos containing the perspectives of politicians, businesspeople, paramilitaries involved in usurpation, and those critical of the land restitution program, among others.

During the early stages of fieldwork, I went to a number of places in the Caldas department -a mostly mountainous region, known for coffee production, in central western Colombia- and spoke informally with people who I met through a friend from a regional university. I decided to look more closely into what had been happening in Marmato, a small municipality slated for an open-pit gold mining operation. The planned project would have required the displacement of circa 5,000 people from the town and rural vicinity (Dinero, 2012a; Gran Colombia Gold, 2012; SRK Consulting, 2012, p. 117). The plans have since been discarded; but, at the time, battles to block the open-pit mine were ongoing<sup>18</sup>. It was here I first learned about State-backed dispossession and displacement: the protractedness of the process, which in the case of Marmato was not completed; the various tools and strategies used by company and government representatives to pressure people into accepting relocation and associated divisions between inhabitants; and the difficulties faced by those leading resistance. I was able to interview (in March, May and October 2014) leaders from the Civic Committee in Defence of Marmato, the Association of Traditional Miners of Marmato and the Cartama Indigenous Council, among others.

I had a more difficult time organising fieldwork outside the Caldas department, my home-base in Colombia. Eventually, I met someone from a human rights NGO, the Interchurch Justice and Peace Commission or CIJP - *Comisión Intereclesial de Justicia y Paz*, who was willing to help me on a collaborative basis. I wrote a report for the organisation - as a volunteer- with the understanding that the research I did for the report could also be used in my thesis. The report focuses on the social and environmental impacts of the oil industry in the Amazon Pearl Peasant Reserve Zone and various Nasa communities in the southern department of Putumayo. I travelled to the region in June and August 2015. CIJP team members shared relevant documents, let me shadow them during their workday, answered countless questions and organised meetings/interviews with community leaders/inhabitants. This process really broadened and deepened my understanding of dispossession, particularly in an area severely affected by armed conflict.

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<sup>18</sup> In December 2014, just a couple months after I conducted a last round of interviews in Marmato, the multinational retracted from its open-air mining plans, citing environmental and social impacts as the primary obstacles, as well as the depth of the mineral deposit (Peña, 2014; Quintero, 2014). This does not rule out the expansion of the company's subterranean operations (with its own set of problems) or the sale of titles to another firm that doesn't uphold its predecessors' promises. Indeed, the social conflict in Marmato -in particular between small scale miners and the multinational- did not end there; still, the announced decision certainly changed the terms of struggle.

I felt, however, that my research would be incomplete if I didn't examine a process in which paramilitaries played a more direct role. I decided to return to a story I had come across in the news around 2007/2008: the violent takeover of the collective territories of Jiguamiandó and Curvaradó (in Chocó department, northwest Colombia) by paramilitary-backed palm oil businesses. Dozens involved in the usurpation have been tried/convicted and court sentences are publicly available. These texts offer a rare amount of detail and insight into the strategies used by the para-elite to accomplish dispossession; without these, such information would be difficult if not impossible to access. The experiences and perspectives of people from Jiguamiandó and Curvaradó were also already documented by various organisations, including CIJP. For this and other reasons (including time/resource constraints), my research for this 'case' was desk-based. I drew on government sources, NGO and media reports, and especially recent criminal proceedings.

In addition to these three in-depth 'case studies', this thesis has been shaped by a mixture of accounts from different parts of Colombia. I travelled, attended relevant events and spoke with people whenever the opportunity arose. For example, I followed a sociologist friend to an Embera *resguardo* in Riosucio (Caldas) and heard an elder's account of land 'recovery' battles decades past (May 2014). I started to learn about 'special jurisdictions' by attending an event organised by the Public Prosecutors' Office in which the majority of participants were indigenous leaders from across Colombia (July 2014). I observed a 'National Victims Forum', which brought hundreds of armed conflict survivors together to gather proposals for presentation at the 'dialogue table' between the government and FARC guerrillas (August 2014). I spent a week in the east of Caldas (involving visits to five different villages and towns) with a functionary from the regional Ombudsman's Office and a friend/NGO lawyer (May 2015). Here, I learned about the failures of the government reparations/restitution program and the problems faced by returnees - including the threat of being displaced yet again by hydroelectric projects.

This thesis has also been formed by experiences and conversations that were not officially part of fieldwork. Colombia has been my second adopted home for the last ten years, which I have spent toing and froing between Brighton (Sussex, UK) and Manizales in the Caldas department. Sometimes the line between daily life and research is not easily drawn (see Stebbins, 2001, especially Chpt. 5). I am constantly learning from my husband (who is Colombian, an agronomist, and familiar with the world of commercial agriculture), friends and students - from hearing about their experiences and asking them questions relevant to this thesis. I have also gone on trips and to events and meetings that influenced

my PhD research in various and often subtle ways. In July 2017, for example, I spent a week in a 'rural transition zone' -the places where FARC combatants assembled for disarmament and reintegration- in the southern department of Guaviare, with colleagues from the University of Caldas.

A distinct but related issue that requires mention is how this thesis is influenced by my personal values and views. I do not feign to be a disinterested and detached researcher. I have ethical and political commitments (in the broad sense – i.e. I am not a member of any party or organisation) that are evident in this thesis. In keeping with a critical realist meta-theoretical position, I do not believe that neutral research is possible. This does not mean 'anything goes' (for a full discussion see Sayer, 2010). Negating the possibility of value-free 'science' does not contradict the basic idea that academic writing on social issues should be based on *research* and guided by "principles such as those concerning honesty of reporting and refusal of illogical argument" (Sayer, 2010, p. 11).

Many single sentences or paragraphs in this thesis have weeks of reading and investigation behind them. As noted earlier, I would consult multiple sources on the same events or issues. I encountered innumerable imprecisions and misrepresentations in news articles, reports from varied organisations and scholarly publications - from different ends of the political spectrum. This led me to reject claims and ideas circulating among friends, groups and academics who hold views with which I am broadly sympathetic. My point, to rephrase, is that while my political and ethical views and values have obviously influenced this thesis, this does not mean they mechanically determined my conclusions, nor that they undercut (what I see as) my duties as a researcher.

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## **Analysing land dispossession: the basic conceptual groundwork**

This chapter establishes some of the basic conceptual groundwork for the discussions that follow. The first section defines dispossession as the term is used in this thesis and argues for a particular definition of land grabbing. Section two explains why I have chosen to link analyses of land dispossession with forced displacement. The third section introduces some key dispossession-related vocabulary, which I use in specific ways. It then distinguishes between three broad types of dispossession. The fourth and final section presents two key concepts that have shaped critical scholarship on land grabbing: Marx's notion of primitive accumulation and Harvey's accumulation by dispossession. I argue that both concepts provide useful insights for analysing land dispossession but that, ultimately, they were constructed for another purpose and hence are insufficient on their own - this point is illustrated further in Chapter 2.

### **1) A focus on coercion: dispossession and land grabbing**

Dictionary definitions are usually deficient for academic purposes, but they are sometimes a good place to start. The verb "dispossess" is defined as: "to take property, especially buildings or land, away from someone or a group of people" ('dispossess', 2019). The legal definition is narrower: "dispossession" is "the wrongful, non-consensual ouster or removal of a person from his or her property by trick, compulsion, or misuse of the law, whereby the violator obtains actual occupation of the land" ('dispossession', 2008). Drawing on these descriptions, I propose that dispossession refers broadly to involuntary land loss. The legalistic definition suggests that dispossession is *unlawful* coercive land acquisition; this is too narrow for my purposes, since I also examine involuntary land loss that is legally sanctioned. And while it is often useful to distinguish between legal and illegal dispossession, in practice the distinction can be ambiguous. Finally, both the above definitions focus on property, but from my perspective *dispossession* implies stripping someone of land they possess, whether they formally and legally own it or not.

I use the term 'land grab' in a similar way to dispossession (though the former is more specific than the latter since not all forms of dispossession involve *someone grabbing* the land). This is a point of contention among scholars writing about the recent global land rush

(discussions of this issue in Edelman et al., 2013; Hall, 2013). Many use the term ‘land grab’ for any large-scale land acquisition, including consensual transfers. Others argue explicitly for a definition that focuses on land control, noting that from this perspective a “land grab does not always [...] result in dispossession” (Borras, Franco, Gómez, Kay, & Spoor, 2012, p. 850). But the word *grab* connotes coercion; arguably, if coercion is not involved then phrases like ‘deal’ or ‘purchase’ (which suggest consent) or ‘acquisition’ (which suggests neither consent nor coercion) are more appropriate. The implied objection to using the term ‘land grab’ in such a specific way is that it narrows the focus of research and could result in the neglect of important issues. The following paragraph proposes a simple response to this concern.

The disagreement over definitions can be traced to the interchangeable use of the phrases: ‘global land rush’ and ‘global land grab’. I argue for a distinction between the two. ‘Global land rush’ denotes an increase in land acquisitions and investor interest in land; it says nothing about *how* the land is obtained. The global land rush has involved both *voluntary* transactions and *coercive* land grabs. Activists, NGOs and some scholars are rightly concerned that the recent rush for land has fuelled dispossession and displacement. So, the proposition is that the global land *rush* is causing an increase in land *grabs*. This does not negate the importance of land use changes or property concentration arising from voluntary agreements or consensual market transactions. Research projects on the global land rush could examine cases of land grabbing, or land deals where no coercion is involved, or a mix of the two. This distinction also helps clarify why so many analyses of dispossession or land *grabs* cannot be easily situated in the land rush literature. This thesis, for example, says very little about the recent global land rush, as this is not my ‘object’ of study.

As noted earlier, research focused on dispossession entails a specific set of questions. For example: could a particular land use change imposed via extra-economic force have been achieved through voluntary transactions instead? Or: what are the main factors that drive and enable dispossession within a given context? There may be some overlap with analyses of a particular land rush. However, a focus on coercion adds another layer of complexity. And, as shown subsequently, it can shape the way we think about capitalist development, liberal democracies and market economies more broadly.

Derek Hall (2013) rightly points out that it is not always easy to distinguish between “economic and extra-economic means of accumulation in land acquisition” (p. 1593). For example, government policies impact how land markets work, and they may set small farmers up for losing their land. So, land transfers that appear to be ordinary market

transactions may “from the point of view of the landholders be shot through with political, legal and coercive power” (Hall, 2013, p. 1594). Thus, it is important to recognise that there are different forms of dispossession and to clarify how the term is being used at any given point. This thesis is mostly concerned with dispossession imposed by the State or private agents using *direct* extra-economic force; however, I also recognise what can be called ‘market-mechanisms of dispossession’ and how these are set in motion by political decisions. Hall (2013) suggests that “the economic/extra-economic distinction may be better seen as a continuum than as a dichotomy” (p. 1594); the same could be said of the relationship between coercion and consent. The definition of dispossession supplied above excludes land transfers at the consent end of the continuum but could potentially include those cases somewhere in the middle, closer to coercion. Nevertheless, in order to avoid repeating cumbersome caveats, I use the term dispossession to refer to processes involving clear and direct coercion, unless I expressly indicate the contrary.

## **2) Forced displacement and land dispossession**

Much of the recent literature on land grabbing refers only fleetingly to the problem of displacement (McMichael, 2012, p. 641; White, Borras Jr., Hall, Scoones, & Wolford, 2012, pp. 693–695); in some cases, only to point out that not all land grabs entail people being displaced (Borras & Franco, 2012, p. 52; Borras, Franco, et al., 2012, pp. 854–857). This is partially due to differences in definitions of what constitutes a land grab, mentioned above. But even coercive land acquisitions do not always result in displacement and, of course, not all displacement is linked to dispossession. Still, the two issues are often closely tied in complex and varied ways; a closer examination of this relationship would be beneficial to both displacement and land specialists, as well as critical political economy and development research more broadly. Furthermore, much of the literature (mainstream and critical) on forced displacement offers valuable insights into dispossession, which is of relevance to research on land grabbing. Likewise, displacement scholars could gain from engaging with the political economy of land.

Land appropriation sometimes underlies displacement attributed to armed conflict and disaster prevention. Even displacement that is genuinely an *inadvertent* consequence of war or some other cataclysm may enable land grabs. Elsewhere, I discuss in detail the limitations of the conventional typology of forced displacement, which includes three main types, categorised according to the presumed cause: conflict, disaster and development-

induced (Thomson, 2014). I argue that this threefold classification diverts attention away from the struggles over resources and territory that are often vital for understanding the stories behind displacement. Of the three, only the development type points directly to the links between displacement and land control. Still, much of the literature on development-induced displacement treats it as a technical policy issue. Furthermore, this is presented as a separate category, distinguished from conflict and disaster -induced displacement. The latter are usually deemed to impede economic development (though they may facilitate land use changes conducive to capital accumulation); the former, in contrast, is portrayed as an inevitable requirement of progress and growth. Overall, the conventional typology predisposes us to overlook, downplay and/or de-politicise land questions.

This thesis is about Colombia, which is said to have the largest internally displaced population in the world. As explained earlier, many of the country's 7 million displaced persons were forced to abandon their lands and homes to avoid being 'caught in the cross fire' or were deliberately displaced for military and related political reasons; however, an unknown number were violently uprooted so that others could take control of their land and its resources. Put simply: the Colombian context demands an analysis of dispossession linked to displacement.

As forced migration intensifies across the world (UNHCR, 2017), it is important to draw attention to how land grabs -often tied to national and international policies- can contribute to humanitarian crises. This is not exclusively a Colombian problem. Many Ethiopians who live in refugee camps in South Sudan and Kenya, for example, were displaced by a government 'villagisation' program - partially aimed at clearing indigenous groups from their territories so that the land can be leased to investors (Abbink, 2011; HRW, 2012a, 2012b). These 'villagisation' programs have been funded by agencies such as USAID and DfID. An ex-employee of the UK aid agency DfID stated frankly that he/she was "prepared to tolerate a certain level of human rights abuses in exchange for progress on development" (cited in Rawlence, 2016). So, aid agencies are simultaneously pumping money into attending humanitarian crises and into policies that underwrite them, in some cases knowingly, in the name of development.

Of course, not all displacement is linked to land grabs and, even when there are links, causes are often multifaceted. In other words, we should not reduce explanations of displacement to land grabbing. But we do need to start debunking some of the simplistic narratives surrounding forced migration crises and I believe land specialists, especially critical scholars, could help. A distinct but related issue -touched upon only indirectly in this



thesis- is how armed conflicts and environmental disasters that generate mass displacement are themselves intimately intertwined with capitalist development (on the former, see e.g. Cramer, 2006; on the latter see e.g. Gellert & Lynch, 2004).

Bringing together analyses of displacement and dispossession, and placing them within broader political economy discussions, can also contribute to critiques of mainstream discourses that portray development (often a euphemism for growth or capital accumulation) as innately benign. Critical scholars maintain that capitalist development produces both wealth and poverty and that the process itself is inherently conflictual and often violent (see e.g. Cramer, 2006; Selwyn, 2014). State-backed dispossession and displacement is perhaps the clearest example of the “violence of development” (McMichael, 2012; Coleman, 2013; Escobar, 2003) and of how the very process that promises to ‘lift people out of poverty’ often impoverishes them instead. According to one of the most well-known experts on development-induced displacement, “the dominant, most important and universally corroborated finding [of research within this field] has been that in developing countries a vast number of displaced people have ended up worse off, poorer than they were before development projects displaced them” (Cernea, 2004, p. 39). A focus on displacement, alongside land dispossession, helps emphasise how people are tossed aside in the name of growth and progress and how related policies overturn lives in ways that are generally associated with disasters and war.

### **3) Types of dispossession: some conceptual distinctions**

Dispossession can take multiple forms: expropriation of privately-owned homes for an industrial park; enclosure of common pasture land by local elites for an agribusiness venture; government-enforced evictions of squatters from State-owned lands coveted by a real estate developer; the forcible acquisition of use rights -like oil infrastructure easements- that significantly impair the owner’s ability to live on or use their land; or the occupation of collectively-owned indigenous territories by a mining firm without a transfer of title. These are just a few examples.

Some of the above terms, such as ‘enclosure’ and ‘expropriation’, are often used interchangeably. However, for the purposes of this thesis, it is helpful to utilise dispossession-related vocabulary as precisely as possible. I adopt the specific definition of ‘expropriation’, found in most dictionaries, which refers to the taking of *private property* by the *State*. This can be contrasted with the enclosure of common land, which may be imposed

by private actors with or without State endorsement. More importantly, in the contemporary era, land under private ownership is usually already physically and socially enclosed, so it makes little sense to call dispossession achieved through expropriation 'enclosure'. Furthermore, while enclosure often involves the *imposition* of exclusionary property rights over common lands (though there may be exceptions such as the fencing of forests for their conversion into State-owned conservation areas), expropriation implies a *violation* of established property rights.

Chapters 7 and 8 of this thesis detail dozens of different forms and mechanisms of dispossession in contemporary Colombia. For the purpose of the present discussion and those of the chapter that follows, I focus on three broad types of dispossession: that which is overtly backed by the State's taking powers, that carried out by private agents without explicit government sanction at the moment of imposition, and that which arises due to economic pressures or through market mechanisms. Later chapters show how these different types overlap in complex ways. However, these basic distinctions are useful for analytical reasons.

(i) *State-backed dispossession* – Legal systems worldwide refer to the State's exclusive 'right' to take land, in particular private property, against the will of its owner - often called 'eminent domain' or 'taking powers'. The actual process is variously referred to as: 'expropriation', 'appropriation', 'condemnation', 'forcible acquisition' or 'compulsory purchase' – to name a few. To avoid confusion, I use the term 'expropriation'. Most country's taking clauses require (a) that expropriation only be used where the public interest demands it or variations on this theme (b) that it follow a legal process, and (c) that the expropriated receive 'just' compensation. These conditions are said to distinguish expropriations under liberal democracy from arbitrary takings by despotic rulers.

Modern 'takings law' -informed by the liberal notion of rights- is supposed to restrict the State's power; expropriation is presented as an *exception* to property rules. For example, the 1789 French 'Declaration of the Rights of Man and the Citizen' proclaims: "Since property is an inviolable and sacred right, no one shall be deprived thereof *except* where public necessity, legally determined, shall clearly demand it, and then only on condition that the owner shall have been previously and equitably indemnified" (Article 17, emphasis added). Similarly, the European Convention on Human Rights states: "No one shall be deprived of his possessions *except* in the public interest and subject to the conditions

provided for by law and by the general principles of international law” (Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms - Paris, 20.III.1952, Article 1: “Protection of Property”, emphasis added).

To reiterate: in most countries, governments are -legally- only allowed to seize land when the expropriation is considered to be *for* the public. Some texts refer to ‘public necessity’ or ‘public interest’ (see above examples) and others to ‘public use’ (see e.g. the US Constitution). The difference in wording is noteworthy, since ‘necessity’, ‘interest’ and ‘use’ imply quite distinct things. But in contrast to most traditions of legal interpretation, the word choice seems to make little difference in this case. Many governments have pushed the boundaries of what constitutes an acceptable expropriation, beyond projects of public necessity, use or even interest. The specifics of this shift (timing and nature) are particular to different countries. However, there is evidence that it is a global trend.

Wily (2012) notes, for example, how across the African continent clauses about “public purpose [...] were] explicitly expanded in most land laws during the 1990-2010 era to include private investments which support economic growth” (p. 768). Similarly, in Colombia, private mining and oil operations are considered projects of ‘public utility and social interest’ because they are alleged to be necessary for economic development. Michael Levien details how, by the 1990s, “land [in India] was increasingly expropriated for any private purpose that represented a higher-value land use than agriculture - no matter how immaterial, consumptive or speculative” (p. 384). Meanwhile, the US Supreme Court defended an extremely malleable interpretation of the ‘public use’ restriction in the country’s Constitution and thus endorsed the already well-established practice of expropriating homeowners and small businesses for private investments. In the words of one judge, who opposed the decision of her peers in the infamous 2005 *Kelo v. New London* case: “Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner” (O’Connor, 2005, p. 1). So, it seems that in many liberal democracies, with capitalist economies, expropriation is neither strongly conditioned nor that exceptional.

State-backed dispossession is not limited to expropriation. The State may also confiscate land through asset forfeiture proceedings. Under Colombian law, for example, the State can extinguish property rights (via *extinción de dominio*) and thus confiscate land, among other reasons, when a property was acquired with money obtained illicitly, if it is used for illicit purposes, if the titleholder breaches select environmental laws, or if the owner stops exercising possession for an established period of time - unless this is due to

‘force majeure’ (Laws 793 of 2002 and 1708 of 2014 and Articles 52-64 of Law 160 of 1994). In such cases, the government does not have to pay compensation, unlike when land is taken via expropriation. This thesis does not examine confiscation in great detail because in Colombia this has mainly affected elites involved in the illicit drug business and absentee landowners who left their properties idle, and I am interested in the dispossession of *campesinos* and other ‘labouring classes’.

Furthermore, when a government evicts people from (or encloses and thus prevents them from using) formally State-owned land, this is not usually considered an expropriation in the technical sense, since the State is not taking private property, but rather ‘recovering’ land it claims as its own. In many parts of the world, especially where large areas of land are not covered by private property titles, this form of State-backed dispossession is more common than expropriation (see e.g. Wily, 2012a). The rules regulating the ‘recovery’ of State-owned lands are different from country to country and may or may not require a formal legal procedure, a public interest justification and/or compensation.

Other forms of State-backed dispossession include the forcible acquisition of easements (land use rights) and, one that is perhaps specific to Colombia, the imposition of (e.g.) oil and mining operations within indigenous and Afro territories under collective title – neither of which involve a legal transfer of ownership.

(ii) *Dispossession effected by private agents* – Here I refer to appropriations not explicitly backed by the State’s taking powers (as above), that are achieved using force and/or fraud, and by people who, at least at the beginning of the process, had no legal claim to the land in question. Broadly speaking, such appropriations are technically illegal in many, if not most, countries. Even people without formal titles often have basic ‘rights’ under the law and the process itself usually involves some illicit activity or another (e.g. arson, murder, forgery). Nevertheless, I decided against labelling this category ‘illegal dispossession’ since these appropriations are frequently legalised ex-post facto. As argued by Simon Springer (2013): “It matters not if the land is obtained through force, theft, fraud, violence or ‘unlawful’ means, so long as the courts recognize the outcome, the act of legally sanctioning unscrupulous activity is what explicitly *makes* it legal” (p. 23, italics in original).

Government agents may assist with the legalisation of such appropriations (e.g. notaries or judges); support the physical removal of the original landholders or prevent their return (e.g. police or army and officials that sign eviction orders); provide the

usurpation with a veneer of legitimacy (e.g. functionaries that approve government loans and subsidies); and may even themselves partake in the profits of such dispossession. Indeed, these have been key characteristics of the para-elite land grab in Colombia, which I describe in Chapter 7. However, this is not the same as an appropriation being formally sanctioned by the State or ‘performed’ using its’ taking powers.

This thesis also shows that -in Colombia- private land grabs and State-backed dispossession are sometimes difficult to distinguish in practice. Still, as mentioned previously, it is useful to establish conceptual distinctions as a starting point in the analysis, even if only to challenge them later. Much more could be said about this but my purpose here is limited to preparing the ground for subsequent discussions.

(iii) *Market-led dispossession* – This thesis focuses on State-backed dispossession and that imposed directly by private agents - the broad types (i & ii) outlined above. Nevertheless, it also touches upon, and demands an explanation of, what may be called market-led dispossession. The most obvious example is when a bank seizes a person’s home or land as collateral for unpaid loans: the foreclosure (which may involve direct physical coercion, especially when accompanied by eviction) -essentially an enforcement of a legal contract concerning property rights- is the immediate manifestation of dispossession, but debt and the factors that led to its unsustainability are the underlying mechanisms driving the process. ‘Distress sales’ in which someone is compelled to sell their land urgently, often at a loss, are probably even more common than foreclosure. Often these sales are undertaken to cover unmanageable debts and thus the underlying mechanisms of dispossession, in such cases, may be similar.

Market-mechanisms of dispossession are arguably specific to, or at least particularly prevalent within, capitalist economies. Explaining this point requires a brief account of Ellen Wood’s concepts of market-dependence and capitalist imperatives. In capitalist societies, most people depend on monetised markets for almost everything - including access to food, water and shelter. The majority are also dependent on markets to sell their labour power, to obtain money with which to purchase these necessities. For many, salaried work is not an opportunity but an imperative; the alternative can be as harsh as hunger and homelessness, even death. Capitalist firms also depend on markets, to obtain their production inputs (including land and labour power) and to sell the final output for a profit. They face systemic pressures of a different sort. Those firms that do not comply with “the

imperatives of competition, accumulation, profit-maximization and increasing labour productivity” risk bankruptcy (Wood, 2002, p. 2 and 7). Wood (2002) explains: “This market dependence gives the market an unprecedented role in capitalist societies” (p. 97).

Typically, market dependence (of the direct producers) is associated with total dispossession or loss of land. However, Wood (2002) shows that -historically- English peasants became “dependent on the market for the basic conditions of their self-reproduction - without being completely dispossessed” (p. 131). The introduction of a competitive money rent system (which gradually replaced customary tenancy arrangements) circa the 16<sup>th</sup>-17<sup>th</sup> centuries forced tenant farmers to prioritise production for markets and to improve productivity. Put simply: their continued possession of the land was made conditional upon the generation of exchange value. As a result, “productive farmers prospered and their holdings were likely to grow, while less competitive producers went to the wall and joined the propertyless classes” (Wood, 2002, p. 103). So, for the unsuccessful or unlucky, market-dependence translated into market-led dispossession. Wood doesn’t mention debt in her exposé of English history but in the contemporary era, in many parts of the world, debt -rather than a competitive rent system- is the key mechanism through which people’s “possession of land” is made “dependent on competitive production” (Wood, 2009, p. 43).

Mainstream economics discourse indicates that the transfer of land from less productive to more productive users is inherently positive as it raises overall economic productivity and growth. Ideal markets *should*, from their perspective, facilitate such transfers (Deininger, 2003, pp. xxvi, xxx, 85–86, 113 and 143). Nevertheless, when forced by market mechanisms, such transfers often result in impoverishment. A document published by FIAN and La Via Campesina (2004) sums up: the transfer of land from less to more productive users “is the technocratic language that the [World] Bank uses to describe the deprivation of peasant families of their means of life” (p. 6). It is worth noting that even ‘competitive’ farmers -who use their land as loan collateral- are vulnerable to market-mechanisms of dispossession; for example, they may go bankrupt after losing their crops to drought or flooding or because they are unable to compete with subsidised goods that force prices below the cost of production. Economists blame this sort of problem on what they call market ‘imperfections and distortions’. Subsidies, for example, would be considered a ‘distortion’ rather than a common characteristic of contemporary economies. Similarly, distress sales are blamed on ‘imperfect’ or under- developed insurance and credit markets (Deininger, 2003, pp. 95–96, 120).

Market-mechanisms of dispossession were/are regularly set in to motion following the implementation of neoliberal reform packages (Akram-Lodhi, Kay, & Borras, 2009; Araghi, 2009; Akram-Lodhi, 2007; La Via Campesina & FIAN, 2004). According to Akram-Lodhi *et al* (2009) “neoliberal agrarian restructuring [... is aimed at] broadening and deepening the sway of capitalist social property relations [...] exposing an even greater number of people to the market imperative” (p. 218). In this sense, market-led dispossession is also driven by specific policies. Farshad Araghi (2009) calls these policies the “visible foot”, as opposed to the invisible hand, behind “dispossession by displacement”. Akram-Lodhi (2007) even suggests that such policies are “*designed* to facilitate a market-led appropriation of land” (p. 1446, emphasis added); regardless of intention, this has been a common result. The elimination of financial regulations and the abandonment of special credit schemes (resulting in interest rate hikes), the lifting or reduction of import barriers (specifically those protecting agricultural sectors) and the repeal of other policies and programs (e.g. government marketing systems and subsidies for transport, fertilizers and other inputs) has driven countless farmers to bankruptcy all over the world. All of this often combined with land market deregulation and property formalisation schemes, ensuring land could easily be transferred to more ‘efficient’ users (Araghi, 2009; Akram-Lodhi *et al.*, 2009; Akram-Lodhi, 2007; Chossudovsky, 2003; La Via Campesina & FIAN, 2004).

Many studies of dispossession concentrate solely on *one* of the three broad ‘types’ delineated in this section. But examining the relationship between different types of dispossession can enrich the analysis. This thesis looks at land grabs effected by private agents and coercive State-backed acquisitions, as well as other forms of dispossession not detailed above. As emphasised earlier, this comprehensive approach permits clearer insight into what has happened in Colombia, where different forms of dispossession often overlap.

#### **4) From primitive accumulation to accumulation by dispossession and beyond**

Marx’s notion of primitive accumulation and Harvey’s notion of accumulation by dispossession are perhaps the mostly widely used concepts in critical scholarship on land grabbing (for a discussion of the different and sometimes contradictory ways these concepts have been used in the ‘land grab literature’, see Hall, 2013). In this section I provide an overview of these concepts and the potential advantages and limitations of using them to analyse land dispossession (Hall, 2013; see also Levien, 2011).

*Marx's account of primitive accumulation*

In the most basic sense, Marx's concept of primitive accumulation responds to the question: how did we get to a point where a small group of people control the means of production and the masses own little more than their labour power, i.e. a society divided between propertied and propertyless classes? Marx (1867) uses acidic sarcasm to mock the notion that the capitalist class was born of hard-working prudent savers, while workers are the offspring of lazy impulsive spenders. Actual history, he shows, is far removed from this fairy-tale (I-26, pp. 873-874). Primitive accumulation, Marx explains, is "the historical process of divorcing the producer from the means of production" and "the expropriation of the agricultural producer, of the peasant, from the soil is the basis of the whole process" (1867, I-26, pp. 875-876). It "operates two transformations, whereby the social means of subsistence and production are turned into capital, and the immediate producers are turned into wage labourers" (*ibid*, p. 874). In other words: land use is subordinated to capital accumulation, while the people who used to till the earth are stripped of their livelihoods and left with no option but to work for a salary. Hence, the dispossession and displacement of the peasantry, according to Marx, is central to the shift from "feudal exploitation" to "capitalist exploitation" (*ibid*, p. 875).

Marx's account of primitive accumulation focuses on the centuries-long process that led to the destruction of the English -and to a lesser extent Scottish- peasantry and the associated "revolution in property relations on the land" (1867, I-30, p. 908). However, he suggests the broader concept is applicable to other contexts: "The history of this expropriation assumes different aspects in different countries and runs through its various phases in different orders of succession, and at different historical epochs" (I-26, p. 876).

In later chapters, Marx extends his account of primitive accumulation to include additional processes, beyond the dispossession and displacement of the peasantry. Hence, to avoid confusion, primitive accumulation may be thought of as many *interlinking* processes (rather than a single one), all of which play a role in the transition to the capitalist mode of production. While the formation of capitalist social property relations is the overall theme that binds these various processes together, the outcomes described by Marx can be broken down into at least five component parts.



First, dispossession was part of a process through which the *primary* means of production (i.e. land) was put at the service of capital accumulation. In Marx's own words: "The spoliation of the Church's property, the fraudulent alienation of the state domains, the theft of the common lands, the usurpation of feudal and clan property [...] *conquered the field for capitalist agriculture* [...] and] *incorporated the soil into capital*" (1867, I-27, p. 895, emphasis added). Land became a 'mere commercial commodity' (*ibid*, p. 885) and land use was subjected to the dictates of the market. In England, this change in landed property relations provided for an "agricultural revolution" through which "the soil brought forth as much produce as before, or even more" (Marx, 1867, I-30, p. 908).

Second, the people usurped of their land are thus made dependent on selling their labour power, supplying emerging capitalist industries (manufacturing and agriculture) with a workforce and/or adding to the 'industrial reserve army' or 'relative surplus population' that plays a key part in suppressing wages. This is, in short, the formation of a 'proletariat' class. However, as noted by Marx, it is not enough that the rural masses are dispossessed and displaced; historically, State force played a key role in the forging of a 'disciplined' wage labour class and in intensifying their exploitation at the service of capital accumulation. These processes (i.e. post-dispossession and displacement) are also part of the primitive accumulation described by Marx (1867, I-28, pp. 899-900).

Third, this landless class of workers must purchase even their most basic necessities (unlike the relatively self-sufficient peasants), creating a mass of consumers and consolidating the 'home market' for the capitalist production founded upon the ashes of the 'rural domestic industries' (Marx, 1867, I-30, pp. 908-915).

Fourth, and relating to the last point, raw materials and essential goods (including food) are converted into commodities controlled by capitalist enterprise. Following the dispossession of independent producers, Marx explains, "flax looks exactly as it did before. Not a fibre of it is changed, but a new social soul has entered into its body. It now forms a part of the constant capital of the master manufacturer" (*ibid*, p. 909).

Finally, the wealth amassed through a wide range of processes -via the financial system, exploitation of slave labour, colonial plunder- becomes the seeds of the capitalist accumulation cycle (Marx, 1867, I-31, pp. 918-923) in which profits, derived from the exploitation of wage labour, are reinvested in the production process with the aim of extracting more profit *ad infinitum*. However, I would reiterate, echoing a point made by Ellen Wood, that this aspect of primitive accumulation only serves the development of

capitalism in so far as the other processes accompany or precede it. Wood explains: for Marx, Adam Smith's definition of the original accumulation as an amassing of wealth was inadequate, not only because it falsely portrayed the process as idyllic, but also because such a perspective represents capitalism as simply "more of the same". Marx understood capital in terms of social relations and hence "while the accumulation of wealth was obviously a necessary condition of capitalism, it was far from being sufficient or decisive. What transformed wealth into capital was a transformation of social property relations" (Wood, 2002, pp. 35–37, 5).

### *Harvey's concept of accumulation by dispossession*

In the 21<sup>st</sup> century, capitalist social relations are entrenched in most parts of the world. In this sense, it seems that primitive accumulation, which Marx labelled a "prehistoric stage of capital", is now an anachronism. Indeed, Zarembka (2002) argues that it is a "mistake" to treat primitive accumulation as "trans-historical" and suggests that the term should only be used in reference to "the process of initial transition from the feudal to the capitalist mode of production" (p. 1). Still, many other authors argue that primitive accumulation is "ongoing", or at least that the concept is useful for understanding contemporary phenomena (De Angelis, 2001; Perelman, 2001, 2007; Harvey, 2003, 2004; Cramer, 2006; Sassen, 2010).

David Harvey (who draws on Arendt and Luxemburg) is perhaps the best-known proponent of "the continuous role and persistence of the predatory practices of 'primitive' or 'original' accumulation" within contemporary capitalism (Harvey, 2004, p. 74). Harvey deems the prefix "primitive" a misnomer precisely because he considers these "predatory practices" to be on-going, and instead uses the term "accumulation by dispossession" (*ibid*). Harvey stresses that Marx's notion of primitive accumulation is not exclusive to the "the commodification and privatization of land and the forceful expulsion of peasant populations" (Harvey, 2003, p. 145) - his parallel notion of accumulation by dispossession covers a "wide range of processes" and "practices" (*ibid*). Indeed, Harvey (2003; 2004; 2005) instils the concept with meaning by detailing varied examples from across the world: biopiracy, speculative raiding by financial institutions, the commodification of culture, privatization programs (e.g. water, universities, health, transport, etc.), among others.

The distinction between 'accumulation through expanded reproduction' (i.e. capitalist accumulation proper) and accumulation by dispossession is key to understanding Harvey's argument. The former creates wealth within the capitalist production process

through the exploitation of wage labour and the reinvestment of profits. The latter, in contrast, “redistributes” or “transfers” wealth in a socially regressive way via “predation, fraud, and [or] violence”. According to Harvey, these two processes of accumulation are discrete, but also “dialectically intertwined” (Harvey, 2003, pp. 143–176).

Despite the apparent unproductive character of accumulation by dispossession, it is instrumental, Harvey argues, in overcoming (partially and temporarily) recurrent crises in which excess capital sits in redundancy due to a dearth of profit-making opportunities. In the author’s own terms: “What accumulation by dispossession does is to release a set of assets (including labour power) at very low (and in some instances zero) cost. Overaccumulated capital can seize hold of such assets and immediately turn them to profitable use” (Harvey, 2003, p. 149). According to Harvey, when accumulation through expanded reproduction becomes untenable, accumulation through dispossession takes centre stage. This, he claims, is precisely the “shift” that began to take place in the 1970s. Thus, for Harvey, accumulation by dispossession is “at the heart” of contemporary (neoliberal) imperialism (2003, pp. 176–182).

#### *Using the concepts to analyse land dispossession*

Marx’s account of primitive accumulation (PA) in England and Scotland includes what is perhaps the first critical political economy analysis of dispossession and associated displacement and is a source of inspiration in this thesis. Nevertheless, the main purpose of this section of *Capital* was to explain the transition from feudalism to capitalism or more precisely the origins of capitalist social relations – not land dispossession per se. Thus, the PA concept offers insights that are useful for analysing both historical and contemporary dispossession but is insufficient on its own, as it was constructed for a different purpose. A similar point can be made about Harvey’s conception of accumulation by dispossession (ABD), which centers upon the role of various forms of dispossession in temporarily resolving over-accumulation crises.

At the most basic level, the PA concept indicates the potential links between land dispossession, the transformation of social property relations and capitalist development more broadly. Marx’s narration of British history, specifically, poses a direct challenge to the general claim that a high prevalence of dispossession typically hinders economic growth (see Chapter 2), by suggesting that such processes played a vital role in the agricultural and industrial revolutions in Britain. Of course, this observation cannot be blindly transferred

from one context to another. Indeed, in this thesis I show how historical land dispossession in Colombia served to perpetuate non-capitalist relations of production, and arguably encumbered economic growth, up until circa the late 19<sup>th</sup> century. In short, we cannot simply assume that dispossession serves capitalist development. The usefulness of the PA concept lies in how it shapes our questions. For example: did X or Y case of dispossession help ‘conquer the field for capitalist agriculture’? Did the dispossessed become wage labourers? Was this part of a broader process that contributed to the establishment of a proletariat class or the expansion of a domestic market?

Marx’s account of primitive accumulation also poses a direct challenge to liberal political and mainstream economics discourse by highlighting the role of dispossession in the creation of modern property institutions and the use of the law as ‘an instrument of theft’ – something I discuss in more detail in Chapter 2. Furthermore, it points to the apparent contradictions of the process; for example, how impoverishment and wealth creation go hand-in-hand or how the new property rules imposed via dispossession simultaneously enabled leaps in productivity and relatively unproductive land uses (e.g. his discussion of the agricultural revolution vs. the Highland game reserves) and more generally the tensions between use value and exchange value inherent to a capitalist land regime. Again, these insights can be used to formulate questions for analyses of historical and contemporary land dispossession elsewhere.

Many scholars reduce Marx’s PA to an account of the historical formation of a wage labour class; the importance of land dispossession specifically is limited, in these descriptions, to its role in turning people into the workers -and sometimes also the consumers- required by emerging capitalist industry (see e.g. De Angelis, 2001; Perelman, 2001, 2007; Zarembka, 2002). Hence, these authors overlook the first of the ‘two transformations’ described by Marx: the ‘conquering’ of land for capitalist industry. This is no small oversight. Capitalist production is based on the exploitation and impoverishment of labour *and* land, which are together “the original sources of all wealth” (Marx, 1867, I-15, p. 638); both must be treated as mere commodities for the system to work. This basic idea is perhaps the most important for understanding and analysing land dispossession within a capitalist context.

The difficulties and problems associated with centring analyses of land dispossession on primitive accumulation are perhaps equally numerous as the advantages. Most importantly, and as noted above, this wasn’t the purpose for which the concept was intended. Even if we accept that in many parts of the world transitions to capitalism are

ongoing or incomplete, the concept (as a whole) cannot be easily adapted to explaining dispossession in contexts where capitalist social property relations are already established. Furthermore, while Marx's notion of primitive accumulation draws attention to how land dispossession may contribute to the development of capitalism, it diverts attention away from this relation in the inverse. In labelling PA a "prehistoric stage of capital", Marx not only concludes that once capitalism is "fully developed" the use of "direct extra-economic force" tends to diminish in importance (1867, I-28, p. 899 - a claim that has been rejected by multiple scholars on different grounds), he also *implies* that the process itself was/is not shaped by capitalist dynamics. Drawing on Wood (2002), I would argue that the historical processes of dispossession and displacement studied by Marx, specifically in England and Scotland, were in fact fashioned by the impulses and ideologies of 'early' capitalism. These issues are discussed further in the subsequent chapter.

In a broad sense, Harvey addresses both these limitations by shifting emphasis from how dispossession contributes to the development of capitalism to the role it plays in subsequent capitalist development and by examining how the specific characteristics of contemporary capitalism drive and define these processes of dispossession. In Levien's (2013) words: "Harvey frees primitive accumulation from its function in generating capitalist social relations" (p. 382). But Harvey casts his net widely, examining how socially regressive 'redistributions' or 'transfers' of wealth help to temporarily resolve recurring over-accumulation crises; in this sense, he lists land grabbing as just one form of ABD, among many others. This wide focus may match Harvey's objectives, but it means that ABD is an imprecise concept with which to examine *land* dispossession specifically. Also, while it is worth considering the role of capitalist crisis in triggering dispossession, this should not be our sole focus, as I argue in Chapter 2.

## **Summary and conclusion**

This chapter has established the basic conceptual groundwork necessary for understanding the discussion and analyses in subsequent chapters. It proposed a basic definition of dispossession, which excludes land transfers based on genuinely voluntary exchange, and explained how the term 'land grab' is used in this thesis, which focuses on coercion. It also introduced other key definitional distinctions (e.g. expropriation vs. enclosure) and distinguished between three broad types of dispossession: State-backed, that effected by private agents, and market-led. The chapter also explained why this thesis brings forced

displacement into the analysis. Finally, it introduced the concepts of primitive accumulation and accumulation by dispossession, which I argue provide valuable insights but are inadequate on their own for analysing land dispossession. With this conceptual grounding in place, the next chapter proceeds to present and critically evaluate mainstream accounts of land dispossession and those found in critical scholarship - highlighting how my research on Colombia serves to challenge and/or reinforce such accounts, while also putting forward some of my own arguments.

## **Analysing dispossession: from the inadequacy of economic and liberal paradigms to the complexity of critical political economy**

Dispossession has received renewed attention in the context of what is popularly known as the 'global land rush' (Fairbairn et al., 2014). Nevertheless, much of the recent 'land grab literature' focuses on the rush for land itself, its characteristics (how much land is being acquired, where, by who and for what purpose?) and causes (what triggered this rush and what conditions have enabled it?), globally and within specific regional and national contexts. This research has improved understanding of the recent land rush and established the necessary groundwork for varied theoretical discussions (see e.g. Borras, Franco, et al., 2012; Borras, Kay, Gómez, & Wilkinson, 2012; Cotula, 2012; Visser, Mamonova, & Spoor, 2012). However, for the most part, it doesn't tackle issues surrounding dispossession specifically. Just a select few scholars focus on *coercive* land acquisitions and still fewer have attempted to address wider questions such as whether and how dispossession has changed over time and its role in contemporary capitalist economies.

This is not just a feature of the recent literature on land grabbing. In general, explicit theories of land dispossession are lacking. Unlike other broad and multifaceted issues -such as civil war, crime, or economic development- land dispossession has not generated big cross-discipline debates among scholars. This is not to say that dispossession has not been investigated. But relevant empirical, conceptual and theoretical claims (sometimes simply implied) are dispersed in varied fields and the researchers working within these different areas rarely engage with one another. This makes writing a literature review about this topic a tricky endeavour, one that is -nevertheless- taken up in this chapter.

My aim is four-fold: (1) to identify and critically analyse the main claims about land dispossession; (2) to highlight how my research on Colombia either serves to challenge or reinforce these claims; (3) to develop a conceptual framework for this thesis, based on critical political economy; and (4) to put forward some of my own arguments. It is important to note that this chapter should be read as a 'product' of my doctoral research, rather than as its 'precursor' or 'foundation'. Borrowing from Marxist terminology, it is the result of a very long process of going back and forth between the abstract and the concrete.

The sections of this chapter are organised around specific claims on land dispossession, which are divided broadly into those found in research informed by orthodox economic and liberal political/legal paradigms (part one, consisting of 8 claims) and those found in critical scholarship (part two, consisting of 6 claims). This is by no means an exhaustive review. I focus on claims about the relationship between dispossession and economic development or growth, capitalism, property rights, land markets, and the law.

## **PART 1: THE CONVENTIONAL UNDERSTANDING OF DISPOSSESSION**

The first part of this chapter provides an overview of eight key claims on land dispossession (both explicit and implied) found in orthodox economic and liberal political/legal discourses. Each section is centred upon a specific claim. Most sections include a critical evaluation of the claim under consideration; however, in some cases, the critique is deferred to the second part of the chapter. The discussion covers both State-backed dispossession and that effected by private agents; these are not separated into different sections, as some claims pertain to both ‘types’. As noted in the previous chapter, this thesis uses the term ‘dispossession’ to refer to processes involving direct extra-economic coercion, unless explicitly stated otherwise.

### **1.1) Dispossession is antithetical to capitalist economies in which competitive markets, based on clearly defined property rights, ensure an efficient use and allocation of land.**

Liberal legal theorists and orthodox economists typically define *private* property as a “bundle of rights” including: the right to exclude others from using the land in question; the right to use the land freely or as one chooses (within certain limits), the right over any income derived from it; and the right to approve or deny ownership transfer to another (Hamilton & Bankes, 2010, pp. 24–25; Rubin & Klumpp, 2012, p. 2). In general, private property rights in land are seen as vital for enabling growth-generating investments (Rubin & Klumpp, 2012; Miceli, 2011; Williamson, 2009; Deininger, 2003; Soto, 2001).

But economic ‘efficiency’ is not just a question of whether people invest, but also *how* they invest. Mainstream economists usually assume that proprietors (rational actors) will make investment decisions based on market price signals, thus ensuring that land use corresponds to society’s wishes, as measured by effective demand (Miceli, 2011). For



example, if market price signals suggest an oversupply of oranges and a shortage of avocados, a landowner would invest accordingly; she would profit more from planting an avocado orchard as high demand and relative scarcity pushes avocados' price up. Hence, the 'right' to use the land as one chooses is indispensable to the property 'bundle'. If the government dictates land use (e.g. all farmers in X area must grow oranges), then the efficiency function of private property is undermined.

So-called 'efficient' land use also depends on 'efficient' allocation, which economists claim is best achieved through *voluntary* transactions. Resuming the example from above, suppose the landowner is elderly and doesn't have the energy to run an avocado orchard. She might sell the land to a businessman interested in cashing in on the avocado boom and retire with the money she got in return. Likewise, if the land could generate more profit as a new housing development instead, a developer would be willing to offer an even better price for the land. The landowner would sell to the developer (the highest bidder); again, society would get what it values most, as measured by effective demand. Hence, market-mechanisms are alleged to ensure that land and other resources are allocated 'efficiently', which requires tradability or the 'right' to approve or deny a transfer of ownership (Miceli, 2011; Deininger, 2003; Posner, 1981).

In general, it is simply assumed that so-called 'inefficient' producers would benefit from transferring their land to others and hence that they choose to do so voluntarily. For example: "Households with low agricultural skills are likely to be able to obtain higher incomes from off-farm employment than from farming, and thus will be better off if they rent out some or all of their land for others to cultivate. [... this] will unambiguously increase incomes for everybody" (Deininger, 2003, p. 86). In reality, this free market model of 'efficiency' involves 'inefficient' producers being pushed off their land by economic forces. Put simply: the model depends upon market-mechanisms of dispossession as well as *genuinely* voluntary exchange.

In contrast, land (re)allocation achieved via direct extra-economic force and/or coerced changes in land use are not central to these market models. Indeed, these practices are associated with 'planned' economies, widely considered anathema by market economists. On the whole, dispossession is deemed unnecessary within capitalist economies: "As long as property rights to land [...] are well-defined and a proper regulatory framework to prevent externalities is in place, productivity- and welfare-enhancing transactions can occur without the need for active intervention by the state" (Deininger et al., 2011, p. 34). Nevertheless, mainstream economists themselves introduce important -

destabilising- exceptions to this general argument, as explained below (see claims 7 and 8). Part two of this chapter, in particular the final section, directly and forcefully calls into question the idea that dispossession is antithetical to capitalist free market economies.

### **1.2) Dispossession occurs due to a lack of clearly defined formal property rights.**

The most common explanation of dispossession is that it arises in the absence of clearly defined formal property rights and a strong rule of law (versions of this thesis can be found in Deininger, 2003; Deininger et al., 2011; FAO, 2012). These are interrelated issues but, for the sake of clarity, I focus here on the property rights component of the argument. An extreme version of the above claim is implicit in “Western foundational narratives that tell property’s story, which often begin from an a priori and usually violent world before property” (Blomley, 2003, p. 124). In the imagined pre-property ‘state of nature’ land is allocated through violent competition; the threat of dispossession is simply part of everyday life. From such a perspective, land theft is a problem prevalent in ‘savage’ societies (for an overview and critique of these ‘foundational narratives’, see Blomley, 2003).

Variations of this argument acknowledge alternative land tenure systems and accept that a lack of ‘modern’ property rules doesn’t necessarily translate into a Hobbesian free-for-all. However, the assumption is that customary structures tend to break down over time, due especially to population growth, but also technological change and the expansion of trade (Deininger, 2003, pp. xvii–xviii, xxiv–xxv, 7–10). Deininger explains: “demographic changes, especially in the absence of economic development, will increase the scarcity and value of land. This can challenge traditional authorities and institutions that previously had unquestioned authority over land allocation”. In the best-case scenario these changes will generate a natural “evolution of land tenure arrangements” or a “virtuous cycle where greater resource values lead to an increasingly precise definition of property rights that induces higher level of investment”. In the worst-case scenario, “failure of the institutions administering land rights to respond to these [new] demands can lead to land grabbing, conflict and resource dissipation” (2003, pp. xxiv, 8, 10, xviii). From this perspective then, dispossession is a function of two variables: increasing land values (caused by demographic growth or market integration) combined with a lack of effective property rights.

Both the above narratives are problematic. As explained below, it was/is a particular ideology that proclaimed possession and use as insufficient proof of ownership and customary rights as violable - thus making it legally acceptable to dispossess land holders

without formal property rights (Wily, 2011). However, the general claim that people are dispossessed because they do not have property titles (or other forms of formally recognised rights) over their land does not necessarily have to be embedded in such narratives. The weakness of this claim lies in its misleading emphasis. For example, who is responsible for dispossession, their motivations, power relations, etcetera, may be treated as minor details from this perspective. Also, the dynamics of economic development or capitalist expansion are rarely part of the explanation; when these topics do appear, it is often suggested the conditions conducive to dispossession arise from their absence (e.g. see quote above). In short, those who defend this claim (1.2) often see a lack of clearly defined property rights as the main problem and titling or other formalisation programs (plus improvements to the cadastre and land registry) as the main solution - alongside the rule of law issue, discussed below.

Notwithstanding these limitations, qualitative evidence does suggest that *people without formally recognised property rights over their land are more vulnerable to dispossession* (effected by the State and private agents) than their counterparts with legal title. Note that acknowledging this does not imply accepting overall claim 1.2; the proposition in italics allows us to introduce the lack of formally recognised property rights as an enabling condition for coercive land dispossession, while also asserting that it is neither necessary nor sufficient.

Finally, it is often assumed that people lack formally recognised property rights because of insufficient resources or poor institutional capacity. This may be partly true, but it's not the whole story. Historically, countless people were systematically *denied* property rights over their lands (see e.g. Wily, 2012a). And while many countries' legal systems now theoretically permit anyone to acquire property, the State may still exclude certain areas from titling. In Colombia, for example, titling is prohibited within a 2.5 km radius of non-renewable resource exploitation and the government can 'reserve' areas of State-owned lands for certain projects, preventing families and communities from obtaining formal rights over their farms and territories. Hence, many people are denied titles so that the land can easily be mobilised to serve economic growth; they are vulnerable to dispossession on purpose (see also Wily, 2011)<sup>19</sup>.

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<sup>19</sup> Robinson (2016) makes a similar point (though he refers only to coercive land acquisitions effected by private agents, not State-backed dispossession): he notes that informal land rights are prevalent in Colombia's "periphery" due to the "weakness and incapacity of the State" but also because "there are strong interests in the[se] poorly defined and weak property rights" (p. 34).

### 1.3) Dispossession occurs due to a weak rule of law.

Of course, even people *with* formally recognised rights over their land have been dispossessed. This is typically assumed to occur because of a weak rule of law (e.g. this view is implied in Deininger, 2003; Deininger et al., 2011; FAO, 2012; a qualified version of this argument can be found in Visser et al., 2012). In a basic sense, this refers to a situation in which the government is unable to enforce legal norms or itself violates them. A strong rule of law is said to be especially important for protecting groups with less power and resources against dispossession since “self-enforcement will be highly correlated with individuals’ wealth” (Deininger, 2003, p. 24). For example, elite landowners are more likely to be able to afford fences and guards to defend their land claims (*ibid*). Conversely, where the rule of law is weak, powerful individuals can act with impunity and take land belonging to others.

This explanation of dispossession is deceptively compelling in the case of Colombia. The Colombians have two popular sayings that are relevant here: ‘*la ley es para los de ruana*’ and ‘*hecha la ley, hecha la trampa*’<sup>20</sup>. The first implies that only labouring classes are expected to obey the law or that its only applied punitively to these groups (although it has more specific origins and connotations since ‘ruana’ is a garment typically worn by Andean *campesinos*). The second implies that as soon as a law is approved a loophole is found through which it can be bypassed. Both these sayings can help us understand why dispossession has been so prevalent in Colombia, historically and to date. Nevertheless, this does not mean the issue can be solely explained as a rule of law problem.

The ‘rule of law’ is a contested and slippery concept (Coleman, 2018; Waldron, 2016b; Mattei & Nader, 2008). Some definitions are limited to “formal” and “procedural” principles that do not determine the content of the law. For example: the law itself should be general or impersonal, stable and thus predictable, clear and disseminated as public knowledge; an independent and impartial tribunal should be in charge of administering the law; the reasons for its decisions should be based on arguments and evidence and made available to the affected parties; and the latter have a right to be present and represented at a hearing (incomplete list based on Waldron, 2016b). But if the rule of law is limited to such principles, we must reject the proposition that dispossession occurs due to a weak rule of law because the law itself may sanction it.

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<sup>20</sup> ‘*La ley es para los de ruana*’ roughly translates as ‘the law is for those of the ruana’ – a garment similar to a poncho, while ‘*hecha la ley, hecha la trampa*’ is akin to ‘the law is made, the trick is made’.

Many people simply assume the rule of law comprises the protection of private property<sup>21</sup>. Some actually assert that stable and impersonal property rules are “the essence of the rule of law” (Cass cited in Waldron, 2016b). Accepting that the defence of private property is part of the rule the law, implies adopting a “substantive” definition of the concept (i.e. going beyond formal and procedural principles); this “inaugurates a sort of competition in which everyone clamors to have their favorite political ideal incorporated [... such as human rights or democracy ... the upshot is that] people struggle to use the same term to express disparate ideals” (Waldron, 2016b). An example to illustrate this point.

As explained in Chapter 6, a number of municipalities in Colombia recently held popular consultations in which an overwhelming majority voted against permitting oil and mining operations in their localities. (This, it should be noted, is the only official route through which people can avoid being dispossessed for such projects.) Some legal experts and government functionaries claimed that municipal authorities have no power to implement the will expressed in the vote. But the Constitutional Court determined that municipal governments can impose land use regulations, which effectively block mining and oil investments, within their jurisdiction. On the one hand, representatives of the extractive industries and their allies denounced the ‘juridical uncertainty’ in Colombia, portraying the Court’s decision as a threat to the rule of law. On the other hand, opponents of the extractive industries see these events as a victory not just for their communities and the environment, but for the rule of law: the Court defended the principles of the Constitution, despite the pressure of powerful interest groups.

These ambiguities are not resolved by focusing solely on the protection of private property. For example, multiple observers have argued that expropriations for *private* projects violate the right to property and the requirement that such takings only be used for the public benefit. So, should we conclude that the USA, for example, has a weak rule of law? To reiterate: definitions of the rule of law are open to debate, making it difficult to make sense of the claim that land dispossession is due to its weakness.

Furthermore, the rule of law (which under liberal substantive definitions includes the protection of property) is often treated as a technical issue. If dispossession is widespread then the solution is to change the law and/or improve enforcement mechanisms: “legal reform is needed where [...] certain categories of users or owners face a high risk of land

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<sup>21</sup> See, for example, the [Heritage Foundation’s Index of Economic Freedom](#), which includes property rights as the main “Rule of Law” indicator, alongside “freedom from corruption”.

loss or expropriation” (Deininger, 2003, p. 75). I do not wish to discount the idea that certain legal reforms could help protect against dispossession. However, the content of the law and how it is interpreted and applied depends on ideology, the balance of power between different (inter and intra class) groups, and the multiple constraints and pressures faced by the government. Theoretically, the “Rule of Law is supposed to lift law above politics” (Waldron, 2016b), but this is a fantasy. In practice, the legal realm is a site of constant struggle. This is true all over the world – not just in the Global South or in countries deemed to have ‘fragile’ governments. For example, according to the Institute for Justice, in the USA, “the parties who gain from eminent domain abuse [...] have disproportionate influence in the political arena [...] and] have fought hard against eminent domain reform” (IFJ, 2010). In short: it’s not a technical problem.

So far, the discussion has mainly focused on State-backed dispossession. But what of appropriations carried out by private agents? (Here, I write exclusively from my knowledge of Colombia.) At first glance, the rule of law explanation seems to have more utility in such cases. Broadly speaking, historically and to-date, the Colombian State has been unable and/or unwilling to enforce its land laws and to protect its citizens’ property rights. The problem is that general statements like this, even if superficially true, obscure more than they reveal when taken out of context. The more pertinent question is *why* the State has been unable or unwilling to enforce its land laws - noting, of course, that unable and unwilling are two different things.

As a starting point, the State is not unitary– so while one entity might be working to enforce a law, another might be trying to repeal it or prevent its’ implementation. Second, dispossession is never affected by a single law or policy, meaning that certain legal norms may facilitate the process, while others block it. Third, the central government itself may simultaneously promote (at least indirectly) and condemn private land grabs through different laws, policies, actions and inactions. In general, changing social, political and economic dynamics have influenced how the central government responds to dispossession. The typical rule of law explanation downplays all of these complexities.

Finally, *which* land laws has the Colombian government been unable or unwilling to enforce and *whose* property rights has it been unable or unwilling to protect? The unenforced laws that would have blocked coercive dispossession are largely those that disadvantage large investors, for example: land ceilings, transfer restrictions and transaction freezes during periods of forced displacement. And it has mainly failed to protect the property rights of *campesinos*, Afro and indigenous groups. If Colombia’s so-

called ‘weak rule of law’ affected everyone equally, the Heritage Index of Economic Freedom probably would not rank the country as well as it does in terms of “the degree to which a country’s laws protect private property rights and the degree to which its government enforces those laws”<sup>22</sup>.

To reiterate, it’s not that the content of the laws, the government’s ability to enforce them, and the nature of the judicial system don’t matter. They do. The problem is when legal reform and other technical fixes are fetishised. Policy-oriented researchers who blame dispossession on a weak rule of law often ignore power relations and ideology or treat them as exogenous factors. Borrás and Franco put forward a similar argument in their analysis of ‘land governance’ issues; they show how policies and programs that are treated as “technical” and “neutral” are inherently political. Achieving genuinely “pro-poor” and “democratic land governance”, they argue, demands recognising this and then strengthening “autonomous” rural “mobilisations”, identifying and supporting allies in the government, and ensuring “mutually reinforcing interactions between” them (Borrás & Franco, 2010, pp. 23–24).

#### **1.4) Dispossession is a common feature of violent conflict and war because of the concomitant weakening of property institutions and the rule of law.**

Land dispossession, especially that effected by private agents, *seems* to be particularly pervasive in contexts of armed conflict. One way of explaining this presumed connection can be extrapolated from orthodox economic theories of civil war. Paul Collier asserts, for example: “Governments reduce expenditure on the police during conflict as they increase spending on the military. As a result, the risks of punishment for criminal behavior decline” and activities such as theft increase (Collier, 1999, p. 8). The problem with using such an observation to explain land usurpation in violent settings is two-fold.

On the one hand, it is not clear that ‘criminal behaviour’ does *uniformly* increase in conflict-contexts. In Colombia, both guerrilla and paramilitary groups tended to exert considerable social control in their stronghold areas. They essentially imposed their own laws on civilian populations and used especially harsh ‘punishments’ to deter certain

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<sup>22</sup> Colombia, alongside Chile and Uruguay, were the only countries to receive a mid-range rating in South America in 2017, in terms of the *property rights indicator* specifically. As another imperfect indication of Colombia’s reputation as an ‘investment destination’, consider that in 2017 it came in at 59 on the World Bank’s Doing Business Rankings - above Puerto Rico, Luxembourg and Greece.

‘criminal behaviours’ such as petty theft (CNMH, 2011, 2012a; Molano, 1989). In the Colombian context, it was mostly paramilitaries that effected land grabs, in alliance with a varied elite, and largely against *campesinos*; arguably, the low ‘risk of punishment’ had much more to do with who did the dispossession and who was dispossessed than a homogenous decline in law enforcement. On the other hand, the use of such observations to explain land dispossession specifically is clearly inadequate. Among other reasons, land is not like other ‘property’ or ‘possessions’; it is not an easy target for looting.

Over the last decade or so, policymakers and scholars have paid increasing attention to land issues in conflict-contexts. This growing field of specialists are well attuned to the complexities of *land* dispossession in these settings. Nevertheless, the basic predominant explanation within this literature is similar: land dispossession is enabled by a “weaken[ing] or collapse” of “State and customary institutions” (UN, 2012, p. 9; see also Takeuchi et al., 2014, p. 242). Unruh and Williams (2013) explain: “violent civil conflict reduces the power and penetration of state law in affected regions [... it] may cripple or render inoperable the state’s land and property administration institutions” (p. 9). In the case of Colombia, such general statements can end up misconstruing what actually happened. Later chapters show how paramilitaries and their allies achieved dispossession through a careful navigation and deployment of property rules, rather than by exploiting their collapse. In short, even in conflict contexts, the weak property institutions/rule of law explanation is insufficient.

### **1.5) The best way to prevent dispossession is through titling/formalisation programs and improvements to the rule of law.**

Explanations of this claim and the accompanying critique are implied in the discussions surrounding points 1.2 and 1.3, and hence are only touched on briefly here. Institutions such as the United Nations Food and Agriculture Organisation (FAO) and the World Bank are right to emphasise the vulnerability of people without formally recognised land rights and the role of underfunded, incompetent and/or unscrupulous government agencies and agents in creating the conditions for dispossession. However, overall, “portrayals of the state as weak or corrupt and of the need for good governance as a solution to the excesses of expropriation are overly facile” (Wolford, Borras, Hall, Scoones, & White, 2013, p. 206), as shown above. To reiterate: the titling/formalisation and rule of law solutions to land dispossession tend to downplay the importance of power relations and de-politicise inherently ideological questions.



Titling and formalisation programs and improvements to the rule of law (imagining, for the sake of argument, we agree on what the latter means and that both these ‘solutions’ can be effectively implemented) are likely to transform rather than ‘solve’ the problems surrounding dispossession. Supposing ‘illegal’ dispossession could be eliminated and everyone had formally recognised rights to their land, we are still left with the question of ‘legal’ dispossession, which includes the expropriation of private property. And dispossession -with all the attributes of an orderly, efficient, transparent legal process- is still dispossession.

The issue of expropriation is sometimes reduced to the idea that so long as compensation is paid, it’s acceptable. There are two main problems with this. (1) On the one hand, the systems used for determining ‘just’ compensation tend to systematically ‘undercompensate’ people - especially those without power and resources (Berliner, 2003; Cernea, 2004; Levien, 2011; Miceli, 2011). It is possible that if the dispossessed were truly ‘made whole’, the project for which they were removed would become financially unviable - *at least* relative to the profit prerogatives of the beneficiary firm (this is an issue that deserves attention in future research). In any case, profit-oriented companies clearly have motives for attempting to minimise compensation. So, arguably, systematic under-compensation is often an in-built attribute of dispossession, not a mere oversight. (2) On the other hand, non-financial and immaterial losses are ignored or it is falsely assumed that they can be ‘compensated’ with extra money or cancelled out with the right policies. Because many people value their homes, farms or territories for non-monetary reasons, the ‘ethics’ of dispossession cannot be reduced to compensation.

#### **1.6) A high prevalence and/or risk of dispossession hinders economic growth.**

The FAO (2002) defines “security of tenure [... as] the certainty that a person’s rights to land will be recognized by others and protected in cases of specific challenges. People with insecure tenure face the risk that their rights to land will be threatened by competing claims, and even lost as a result of eviction” (see also UN, 2012, pp. 19–20). Thus, insecure tenure means a high risk of coercive dispossession. And insecure tenure is characteristically said to hinder economic growth and development (FAO, 2002; Deininger, 2003; Unruh & Williams, 2013c, p. 538; DFID, 2015). It is worth emphasising that this claim goes with those above, since insecure tenure is usually attributed to a lack of clearly defined formal property rights and/or a weak rule of law.

A high risk of dispossession is generally assumed to deter people from investing: “secure tenure is critical to provide incentives for households and entrepreneurs to undertake land-related investments. If their ability to keep the benefits from investments is uncertain, they are unlikely to invest” (Deininger, 2003, p. 39; see also Soto, 2001, p. 18). Another reason the threat of dispossession is said to hinder economic growth is the forgone earnings implied in protecting against it: “if property rights are poorly defined or cannot be enforced at low cost, individuals and entrepreneurs will be compelled to spend valuable resources on defending their land, thereby diverting effort from other purposes such as investment” (Deininger, 2003, p. xix and 23-24; see also Rubin & Klumpp, 2012).

In addition to limiting the investments of people who are already landholders, a high risk of dispossession is also thought to deter potential investors from acquiring land; i.e. to discourage growth-enabling transactions (Deininger, 2003; Rubin & Klumpp, 2012). Nevertheless, a recent World Bank publication suggests that “lower recognition of land rights *increases* a country’s attractiveness for land acquisition” (Deininger et al., 2011, p. 55, emphasis added) and that “a favourable investment climate as proxied by the Doing Business rank for investor protection has only a weak effect on planned and none on implemented investment” in farmland (*ibid*, pp. 54-55). What accounts for this apparent anomaly? Put simply: insecure tenure is not distributed equally, as indicated in the examples from Colombia above. Arguably, certain types of tenure insecurity benefit powerful investors because it enables them to obtain land cheaply through mechanisms *other than* voluntary market exchange (i.e. via dispossession).

Deininger et al. (2011) themselves assert that the “factors conducive” to successful business ventures, aimed at producing “high-value export crops” in Sub-Saharan Africa, “were an ideal agro-economical setting, low if any compensation for land, and cheap labour. [...] These natural advantages offset a lack of technology, weak institutions, high transport costs and ill-functioning markets” (p. 26). But cheap land and labour are not ‘natural advantages’. Arguably, much of the land acquired in Africa during the recent global investment boom was only cheap because it was usurped from local communities, usually by the State on the investors’ behalf. The same World Bank publication informs: “Smallholders’ income is [often] 2 times to 10 times [more than] what they could obtain from wage employment only” (*ibid*, p. 35). The question is whether these investors would be willing to pay an amount (for land and/or labour) sufficient to actually induce people to sell/rent their plots voluntarily? Given that the success of the projects described above depended on “cheap” labour and land, the probable answer is NO.

Deininger et al. (2011) provide an illustrative example in which voluntary transactions would generate the least amount of monetary wealth. They compare four different “options for engaging small farmers” in “large-scale investment”: (1) “a smallholder model tied to a nuclear estate”; (2) “a joint venture model in which local people with customary rights to the land receive an equity share in a plantation run as single operation”; (3) “a fixed land-lease model based on an annual rental payment”; (4) “a purely private company operation with government providing the land through a concession without compensation” (Deininger et al., 2011, p. 36). The comparison is based on case studies of palm oil production in Sarawak, Malaysia. (Unfortunately, the authors don’t offer information about smallholder production independent of a large-scale investment.) A graph examining the “distribution of benefits” clearly shows that the best option for smallholders (no. 1) also results in the lowest ‘yields’, *as measured by net present value per hectare in US dollars*. Let’s play the rational actor/perfect markets game: if these smallholders had enforceable private property rights over their land and were negotiating with the interested investor on a relatively level playing field (e.g. with access to the relevant information), they would reject transactions that made them worse off and hence would ‘choose’ option 1. Here the arguments made under claim 1.1 start to fall apart, leading indirectly to the next claim.

### **1.7) Sometimes growth and development require dispossession and displacement.**

Some business representatives and economists seem to suffer from a sort of cognitive dissonance when it comes to State-backed dispossession. On the one hand, they maintain that ‘efficient’ land allocation and use is best assured through voluntary transactions within a context of free markets and private property. On the other hand, they also acknowledge that many investments would not proceed without coercive land acquisition. Few have attempted to address this apparent contradiction systematically. Given that the World Bank is simultaneously an ardent defender of un- or lightly- regulated land markets, and one of the most important funders of investments that rely on coercive dispossession and displacement, it is worth considering what their policymakers have to say on the matter.

First, some basic context. Recent calculations suggest some 3.4 million people were displaced (physically and/or economically) by projects financed by the World Bank Group between 2004 and 2013. Though, “the true figure is likely higher, because the bank often fails to count or undercounts the number of people affected by its projects” (Chavkin,

Hallman, Hudson, Schilis-Gallego, & Shifflett, 2015). Public and private entities implementing projects funded by the World Bank Group are expected to comply with certain standards relating to involuntary resettlement and compensation. On paper, the Bank's standards are higher than those contained in many national legal frameworks regulating expropriation. This is supposed to ensure that affected people are better off following project implementation or at minimum that their 'living standards' are 'restored' (World Bank, 2001, 2016a, 2016b). In practice, however, "successful cases are the exception, not the norm [... often, the displaced are left] impoverished, disenfranchised, disempowered, and in many other aspects worse off than before the Bank-financed project" (Ferris & Cernea, 2014). This quote, it is worth mentioning, is from an article co-authored by Michael Cernea who was "the World Bank's first in-house sociologist [... and got] the bank to approve its first comprehensive policy for protecting people whose lives are upended by the bank's projects" in the 1980s (Chavkin et al., 2015).

The colossal harm associated with projects backed by the World Bank Group has been corroborated by the International Consortium of Investigative Journalists (ICIJ), which led a yearlong investigation involving over 50 reporters. The investments examined were diverse, including: industrial agriculture in Tanzania and Indonesia, forest conservation in Kenya, urban renewal in Nigeria, a 'coastal clean-up' program involving construction of a high-end tourist resort in Albania, a coal-fired power plant in India and a gold mine in Peru (for details see the various articles posted on the [Huffington Post](#) and [ICIJ](#) webpages).

So, how do World Bank representatives and policymakers reconcile their institution's near-obsession with free markets and its bankrolling of projects involving coercive dispossession and displacement? The short answer is they don't. Of course, there are surely individual differences of opinion among the people who comprise the Bank and most Bank publications contain the usual disclaimer that the views of the author(s) are not necessarily the same as those of the institution. Nevertheless, for analytical reasons, they still deserve consideration. There are two broad positions within World Bank publications, which are at odds with each other and the Bank's record as a lender.

The first position, found in the 2003 World Bank report *Land Policies for Growth and Poverty Reduction*, is a muted critique of State-backed dispossession. The author, Klaus Deininger, acknowledges the ubiquity of the phenomenon: "Attempts by the state to exercise its power of eminent domain and pay only nominal compensation for land improvements made by private users are widespread virtually all over the world" (Deininger, 2003, p. 173). He also warns of the potential negative economic impacts: "the

extensive use of the powers of the state to expropriate property [...] undermine[s] the security of individual property rights [which in turn negatively affects] incentives for investment” (*ibid*). Deininger advises that compulsory acquisition should only be used “for clear public purposes” and implies that an ‘extensive use’ of the State’s taking powers is linked to corruption and a weak rule of law (*ibid*). This is, essentially, a reassertion of claims 1.3, 1.5 and 1.6 above. A similar position can be found in a 2011 World Bank publication entitled *Rising Global Interest in Farmland*: “Transfers of land rights should be based on users’ voluntary and informed agreement [...] and should not involve expropriation for private purposes” (Deininger et al., 2011, p. xl). These authors actually provide a detailed critique of expropriation for private investments (pp. 104-106).

The second position is found in World Bank documents on ‘involuntary resettlement’. These publications focus on ‘managing’ the ‘impoverishment risks’ inherent in the process. The assumption is that dispossession and associated displacement is an inevitable part of economic progress. For example: “involuntary resettlement is an essential and historically underappreciated aspect of development” (World Bank, 2004, p. xix, see also: 2016a). Fundamental questions about *whether* and *why* coercion is required or under what circumstances it is defensible are largely absent from the discussions. The closest thing to an explanation is this: “to ensure that public facilities or infrastructure is provided at reasonable cost and is sited appropriately, all governments sometimes invoke legal powers -that is, eminent domain- to expropriate land” (World Bank, 2004, p. xxiv).

The Bank paints an idealised image of how States use their taking powers: for construction of “a road that allows a farmer to get goods to market, access to electricity so hospitals can refrigerate medicines and children can do their homework at night, providing clean water to reduce the incidence of easily preventable water-borne diseases” (World Bank, 2016a). Who could object to such things? The fact that people are regularly cleared off their land to make way for *private* investments, which are clearly not public facilities or infrastructure, is conveniently ignored. Even projects that ostensibly fit into the latter category, such as dams and other power plants, are often for-profit ventures and are not necessarily aimed at getting electricity to unconnected households. They may be aimed at powering certain industries such as large-scale mining operations<sup>23</sup> and people displaced

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<sup>23</sup> For example, according to International Rivers, “[m]any dams have been constructed worldwide to power the aluminum industry”, which is extremely energy-intensive. Among other examples are the Tucuruí dam in the Brazilian Amazon and the Akosombo dam in Ghana, which combined are said to have displaced more than 100,000 people (‘Dams and Mining’, 2007; see also Bosshard, 2013).

by such projects often continue to lack electricity years later (see e.g. Kayawe, 2013; Tunubalá, 2008). The World Commission on Dams notes that case study research “confirms that those who receive the benefits [of dam construction...] are typically not the same groups that bear the social costs [...] Electricity generation [for example] has mostly benefited the industrial and mining sectors [...] and urban areas” (World Commission on Dams, 2000, p. 125).

All in all, the Bank presents an unrealistic win-win scenario in which affected communities actively participate in the project design and implementation so that -in theory- the coercive element of the acquisition becomes inconsequential and the effects of dispossession dissipate. It essentially attempts to conjure what Lara Coleman critically labels ‘ethical dispossession’ (on the multiple ways in which dispossession is depoliticised and rendered ‘ethical’ see: Coleman, 2013, 2015b).

So, why can’t real-estate and tourism companies, mining and energy firms and agribusinesses (including those the Bank provides funding for) acquire land via the markets as the Bank expects ‘the poor’ to do? The answer hinted at above is that *coercive acquisition is required or justified when an investor cannot procure the land at a ‘reasonable cost’ and in the ‘appropriate site’ through voluntary transactions*. Thus, according to the World Bank, in some cases, economic growth and development, driven by private profit-oriented companies, requires coercive dispossession and displacement. The World Bank Group is evidently unwilling to make such overt statements, but they are implied in its policy documents and -above all- its practice as a lending institution.

### **1.8) Dispossession is required to overcome market failures and promote efficiency.**

A few scholars, mostly within the subfield of Law and Economics, have attempted to provide a more systematic explanation of why coercive dispossession is required/defensible in liberal democracies with market economies. They focus specifically on the expropriation of private property. Broadly, the very same principle used to defend private property rights and free markets is also used to justify their violation: efficiency. The “underlying economic rationale” for eminent domain, according to Thomas Miceli (2011), is “the goal of achieving an efficient allocation and use of land” (p. 3).

Most people (including economists themselves) accept that in the real-world things don’t work the way market models predict. As always, when the so-called free market doesn’t perform to utopian standards, this is called ‘market failure’. According to Miceli

(2011), “an economic theory of eminent domain (or, for that matter, any departure from voluntary exchange) must be based on its ability to overcome [...] market failures” (p. 4). In short, the justification for expropriation is like any other economic rationalisation of government intervention: when markets fail to produce efficient outcomes, governments may intervene. However, expropriation is not like other interventions: it strikes at the foundations of capitalist society by directly violating what is said to be most sacred to it: private property. So, it is worth examining these theories in slightly more detail.

Most contemporary economic rationalisations of eminent domain focus on bargaining obstacles in land transactions, specifically on the holdout problem, associated with land assembly (Kelly, 2011; Miceli, 2011; Becker & Posner, 2009; Miceli & Segerson, 2000). Certain types of projects require large continuous tracts of land, which may entail the purchase of several plots. This process is called ‘land assembly’. Projects that demand land assembly are said to be particularly vulnerable to ‘market failures’ caused by ‘holdouts’. Most scholars focus on just one type of holdout: the ‘strategic owner’<sup>24</sup>. It is assumed that if an individual realises his or her piece of land is indispensable for a project, they are likely to demand an abnormally high price. They will ‘hold out’ or refuse to sell, hoping the project developer will accede to paying an exorbitant sum. In such circumstances the seller is considered to have a type of ‘monopoly’, since no one else can provide the very specific area of land required. This ‘monopoly power’ interferes with ‘perfect competition’, producing a ‘market failure’ (Miceli, 2011, pp. 27–28; Kelly, 2011, p. 346; Miceli & Segerson, 2000). In Miceli’s (2011) words: “Even if the properties are more valuable to the buyer (that is, even if the transactions are efficient), individual sellers may strategically refuse to sell in hopes of extracting a larger share of the gains from trade” (p. 73).

Expropriation is one means “to overcome the inefficiency associated with the holdout problem” (Miceli, 2011, p. 30) and “because holdouts can threaten private as well as public projects involving assembly, the granting of eminent domain power to private developers facing a hold-out problem is justifiable on economic grounds” (Miceli, 2011, p. 30 and 46; see also Becker & Posner, 2009, pp. 57–58). In other words, the public use or interest requirement is irrelevant from this perspective.

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<sup>24</sup> Kelly’s (2011) inclusion of two additional types of holdouts (the ‘honest owner’ and the ‘idiosyncratic owner’) complicates the analysis. The ‘honest owner’ refuses to sell for an amount that is *below* their ‘true valuation’. The ‘idiosyncratic owner’ is “unwilling to sell at any price or is willing to sell only at an elevated price”. Both of these owners are distinguished from ‘strategic owners’ who attempt to secure a price that is *above* their ‘true valuation’ (Kelly, 2011, pp. 347–348).

As hinted at above, these authors argue that an expropriation is efficient if it forces a transfer of land from a person or group who value it less to a person or group who value it more (Kelly, 2011; Miceli, 2011). In this sense, they attempt to liken expropriations to Pareto efficient allocations or improvements, in which someone is made better off and no one is made worse off (though many of these same theorists recognise that this is often not the case in practice). The implication is that coercive redistribution becomes a non-issue. The State simply forces a transfer that would have theoretically occurred through consensual exchange were it not for a market failure. Nevertheless, most economists accept that because subjective values are often unobservable, it is difficult to know whether a transaction forced through expropriation is 'efficient' or not. Still, Miceli (2011) treats the risk that expropriation may end up forcing 'inefficient' sales as just one issue to be weighed up among many (pp. 60 and 154-155).

More broadly, the concept of efficiency is used inconsistently in economic justifications of expropriation. While many define efficiency in terms of transactions and subjective valuations, efficient land *use* and broader economic benefits also get thrown into the equation (e.g. Miceli, 2011, p. 28; Becker & Posner, 2009, p. 58). So-called 'efficient land use' is not explicitly defined but it can be inferred that in this context it means the use that generates the most monetary value. The problem is that the person or group that values the land most will not necessarily put the land to the most valuable use - in terms of monetary yields. Consider the following extreme example: many indigenous communities in Colombia would refuse to sell their land at any price and clearly place a much higher subjective value on it than any corporation ever would; however, these same communities are also unlikely to extract the most exchange value from the land (economists' understanding of efficient use) precisely because of the high (non-monetary) value that they attach to it. Put differently: inefficient transactions may actually increase monetary yields and vice versa, efficient transactions may reduce monetary wealth. This scenario is disregarded in the literature; efficient transactions and efficient land use are assumed to go together.

So, which should be prioritised: so-called efficient transactions or so-called efficient land use? Ilya Somin suggests Miceli prioritises the latter: he is said to advocate for expropriation in "situations where one or a small number of individual property owners who refuse to sell to a developer might block a *project whose value exceeds that of the current uses of the land*" (Somin, 2012, p. 55, emphasis added). If efficient land use is prioritised, the notion that expropriations mimic transactions that would have taken place in the absence of market failures comes tumbling down. The attempt to reconcile free market principles



with dispossession using rational actor games failed. We are left with a rehashed version of claim 1.7: in some cases, economic growth and development (a euphemism for an expansion of monetary value) is better served by coercive dispossession than voluntary exchange.

Like the World Bank discourse on involuntary resettlement, the Economics and Law theories of expropriation attempt to de-politicise and sanitise dispossession. For example: Miceli (2011) argues that conceptual clarity could “vanish” the controversy surrounding expropriations favouring *private* entities that do not clearly fulfil the public purpose criterion (p. 34). But he overlooks the key issue: many people find the idea of taking working people’s homes or land by force and handing it over to wealthy and powerful companies abhorrent. The issue is well captured by Martin Luther King’s expression: “socialism for the rich, rugged hard individualistic capitalism for the poor” (King, 1968).

On the whole, the issue of socially regressive redistribution is buried. When it surfaces, it is only conceived as problematic insofar as it generates economic ‘inefficiency’. Questions of justice are ignored or reduced to economics. Miceli (2011), for example, recognises that eminent domain powers may be used to subsidise private companies by providing them with land for a lower cost than they would have paid in the open market. He argues that sometimes it is “appropriate” to subsidise private projects but that in most cases a direct subsidy would be a “better approach” since “eminent domain is an overly blunt instrument for accomplishing this purpose in an efficient manner” (p. 71).

Theories that justify takings when a holdout blocks an ‘efficient’ transaction do not require that the public benefit. Even justifications of expropriation on the grounds of ‘efficient’ land use do not necessarily demand that broader society be made better off. However, other efficiency justifications for expropriation are more closely aligned with utilitarian ethics and welfare economics: takings are seen as a tool for maximizing the social good, defined as *aggregate* ‘personal satisfactions’. For example, Frank Michelman (1967) argues that takings are only justified if they provide “net efficiency gains”, which is “the excess of benefits produced by a measure over losses inflicted by it”. His takings and compensation test is akin to a cost-benefit analysis (Michelman, 1967, pp. 1214–1215) and comes with the same deficiencies. Namely, non-monetary gains and losses cannot be measured without introducing value judgements. This is the same problem faced by the World Bank and like-minded policymakers who defend dispossession as a necessity of development: they are ultimately imposing their value judgements, their definition of wellbeing, upon others. The alternative is worse: they are cynically claiming that the profit prerogatives of the few represent the general interest.

## **PART 2: LAND DISPOSSESSION FROM THE PERSPECTIVE OF CRITICAL SCHOLARSHIP**

The preceding part of this chapter indicated the need for an analysis of dispossession and associated displacement that does not abstract from history, the wider political economy, unequal power relations, social struggles and ideology. This, broadly speaking, is the project of critical scholarship. In what follows, I present some of the main claims on land dispossession found in varied critical publications that engage with the issue, directly or indirectly. Some material is based on my own interpretations or adaptations of evidence and ideas originally presented in a different context for another purpose. I also use the discussions to introduce some basic historical accounts (e.g. of land dispossession in Britain) and key concepts/ideas (e.g. improvement, Locke's theory of property), which I refer to in later chapters. In addition, I advance my own arguments: both general tentative propositions (that wouldn't necessarily be accepted by others whose work is included in the same section) and points that relate to dispossession in Colombia specifically.

### **2.1) The forging of modern property rights -necessary for capitalist development- has typically involved coercive dispossession.**

Critical scholars have turned the traditional creation story of property on its head by showing how the establishment of many, perhaps most, modern property regimes involved violent conflict and coercive dispossession (see e.g. Marx, 1842, 1867; Wood, 2002; Blomley, 2003; Cramer, 2006; Springer, 2013). These narratives suggest that dispossession is not due to a lack or weakness of private property rights (as in claim 1.2 above) but rather corresponds to the imposition of this very institution. This claim is not only useful for understanding historical dispossession, it may also shed light on contemporary processes in contexts where private property rights are still 'under construction'.

Property institutions shape the distribution of power and wealth within a society. Private property rights give their holder the power to exclude and thus (in contexts where land is scarce or monopolised by a few) exploit others by extracting their 'surplus labour', whether this be via land rents or via wage relations. Given what is at stake in the assignment of these 'rights', it is unsurprising that it has not typically been a peaceful and just process. As explained by Cramer (2006), transitions to capitalism, more generally, are "characterised by a war of position [...] a scramble for social position in a social structure whose adhesive has not yet set" (p. 215).

Idyllic property creation narratives persist and hence require continual demystification. For example, Hernando de Soto (2001), one of the most famous contemporary property theorists, proclaimed: in the “developed” world “the process of formal property creation [...] took place over a long period of time as the customs and norms of the peasants were slowly absorbed into formal law”; eventually “political regimes in the West recognized that property is a legal creation, justified by utilitarian concerns and by the legitimate and peaceful interests of the majority” (pp. 19 and 21). Historians and critical theorists have shown, in contrast, that in many parts of the world ‘formal property creation’ was actually based on the destruction of customary norms and rights, resulting in partial or total dispossession of the peasantry.

Modern private property and surrounding foundational myths first emerged in Europe. In much of the continent private property in land has existed for centuries. Under the Roman Empire “a kind of property more private and exclusive than ever before was not only recognised in law, but coexisted with the state in a historically unprecedented partnership” (Wood, 2009, p. 44). However, private property took on a historically specific form and function with the development of capitalism. Notwithstanding the limitations of the ‘bundle of rights’ definition cited earlier, it is a useful way of distinguishing modern private property from other types of land ownership. In feudal Europe, landowners generally did not have the unconditional right to exclude, to use the land however they saw fit, or to sell to whomever and whenever they pleased – all these ‘rights’ were limited by diverse customary norms (Marx, 1842, 1867; Polanyi, 1944; Wood, 2002; Bragg, 2008).

Waldron offers a useful distinction between “three species of property arrangement”: common, collective and private. Under a common property arrangement “resources are governed by rules whose point is to make them available for use by all”. Under collective property norms, “the community as a whole determines how important resources are to be used”. Under private property “various contested resources are assigned to the decisional authority of particular individuals” (Waldron, 2016a). Most feudal tenure systems in Europe were a mix of common, collective and private property arrangements. Under the open field system, for example, peasants farmed “scattered strips [that were] communally regulated but privately owned” (McCloskey, 1991, p. 516). These complex arrangements were partially designed to serve village subsistence requirements (Bragg, 2008).

The new and more exclusive concept of private property that began to take shape between the 16<sup>th</sup> and 18<sup>th</sup> centuries was anchored to the notion of ‘improvement’ or the idea that productivity and -above all- profitability should be the primary criteria of land use and

allocation. Customary rights and practices stood in the way of improvement and were gradually replaced by property norms more conducive to the generation of monetised exchange value (Bragg, 2008; Wood, 2002).

The English enclosures are perhaps the most well-known example. The process took off between the end of the 15<sup>th</sup> and the beginning of the 16<sup>th</sup> centuries, as landlords displaced masses of peasants in order to convert “arable land into sheep-walks”. The “direct impulse for these evictions” was the “rise in the price of wool” (Marx, 1867, I-27, pp. 878-879). The fencing of the commons and the expansion of private pastureland were just part of this transformation. It also involved the replacement of tenancy arrangements fixed by customs or law with competitive money rent leases (Wood, 2002). 16<sup>th</sup> century rural England was a scene of intense -sometimes violent- struggles. As is to be expected, many people resisted being stripped of their customary land rights. But a “strong class of rich peasants” -capitalist tenant farmers in the making- mostly favoured the changes, alongside the rent-seeking landlords. This pitted them against their former allies in centuries of past struggle: the poorer peasants -agricultural wage labourers in the making- who depended on the commons for subsistence (Byres, 2009, pp. 37–38; 40–41).

17<sup>th</sup> century legislation bolstered the usurpers. The Tenures Abolition Act (1660) tore down feudal obligations; the State was compensated via new forms of taxation and the landowners “established for themselves the rights of modern private property in estates to which they had only a feudal title” (Marx, 1867, I-27, pp. 883-884). The expansion of the competitive rent system went hand in hand with continuing enclosures, as land that was previously cultivated in small strips was consolidated into larger enclosed units to be let under the new tenancy rules, permitting the adoption of innovative crop rotation techniques and other new farming methods (Bragg, 2008; Byres, 2009; Wood, 2002).

This long process of dispossession was finalised in the 18<sup>th</sup> and 19<sup>th</sup> centuries with the assistance of the Enclosure Acts. Between the late 1400s and early 1600s, authorities had attempted to limit enclosures (which were mainly “carried on by means of individual acts of violence”) and at times even tried to halt and reverse them with numerous legislations. But by the 1700s the usurpation of common lands was explicitly and legally sanctioned: “the law itself now becomes the instrument by which the people’s land is stolen, although the big farmers made use of their little independent methods as well” (Marx, 1867, I-27, p. 885).

Meanwhile, a similar process was occurring in Scotland. Following the last Jacobite uprising in 1745, the Celtic lairds -who were meant to represent the people of their clan- began to treat their community's land as private property, offering it up 'to the highest bidder' and driving their fellow clansmen from their homes. The Highland Clearances, as the process is known, continued as game reserves for deer hunting replaced sheep pasture as the latest profit-making scheme (Marx, 1867, I-27, pp. 891-893).

In Ireland, the destruction of customary tenure -regulated by Brehon law- was imposed by the imperial English government. Colonial officials of the 1600s claimed that this system was an obstacle to investment and profit and that "certain ownership of land" was a "public good". Such arguments were accepted in the courts and hence the destruction of Irish land law became colonial policy. Communal clan lands were "systematically allocated to new waves of English and Scottish settlers [... and the Irish families that depended on these lands became] their increasingly exploited tenants" (Wily, 2012a, p. 753; see also Wood, 2002).

In mainland Europe too, customary rights were being gradually demolished in favour of a new conception of property (on France and Prussia see e.g. Byres, 2009). Marx's (1842) series of articles entitled "Debates on the Law on Thefts of Wood" point to the on-going socio-legal changes in Prussia that "abolished the hybrid, indeterminate forms of property" on which the "customary right of the poor" was based. They also point to the centrality of profit in the legal/political discussions of the time. By exercising a customary right to collect wood from the forest floor, the poor were seen as denying the landowners the 'right' to profit from their 'property'. And it wasn't just wood: "gathering of bilberries and cranberries [was] also treated as theft" and deemed detrimental to the interests of the proprietors since, in the words of one deputy, "these berries have already become articles of commerce and are dispatched to Holland by the barrel" (cited in Marx, 1842).

In brief, across Europe, land was transformed "into a merely commercial commodity" (Marx, 1867, I-27, p. 885), put at the service of capital accumulation. As argued by Karl Polanyi, the *treatment* of land as a mere commodity, the idea that market forces should determine land allocation and use, was historically unprecedented. Polanyi suggests that laissez-faire liberals decided our societies should be organised by and for profit-oriented markets and tried to mould the world in ways that corresponded with their 'utopian' principles. They invented, so to speak, 'the commodity fiction' (land, labour and money, Polanyi argues, are not in fact commodities) and went about organising markets for land on this basis (Polanyi, 1944). Arguably, the capitalist land regime (based on private property

and land markets, preserved by a centralised legal system and designed to serve productivity/profits above all else) originated before laissez-faire liberalism took hold -at least in England- but this ideology certainly influenced its development and still does.

The breakdown of customary tenure is also part of these historical and critical narratives, like in the arguments presented above under claim 1.2. However, this breakdown is not attributed principally to demographic change, but rather is seen as part of capitalist development and related social struggles. Customary norms have often been deliberately destroyed by colonial powers, national governments and/or domestic elites. Blomley (2003) explains: “the shifting requirements of capitalism meant the enforced and legalized transformation of tenurial systems” (p. 128). This process is ongoing. For example, the recent displacement of hundreds of thousands of Ethiopians is part of the governments’ endeavour to “make pastoralism moribund” (Human Rights Watch 2012, cited in Thomson, 2014, p. 51), to forcibly transform ‘land-based social relations’ (term borrowed from Borras and Franco) and free up land for capital accumulation (Abbink, 2011). To reiterate: in many parts of the world, customary tenure systems didn’t simply stop working; they were -or are being- demolished or discounted, usually on the grounds that they hinder economic development (Wily, 2011, 2012a).

The historical account in this section shows that dispossession was often the purpose of, or was inherent to, the destruction of customary tenure and its replacement by modern private property. This historical perspective permits a different understanding of the link between property rights and dispossession. It’s not that a weakness or lack of private property is inherently conducive to dispossession but rather that customary land rights were devalued. So, people without formal titles are particularly vulnerable to dispossession because of a historical (or ongoing) process through which customary land rights and established possession were deemed violable (Wily, 2011). Further evidence for this point is provided below in the discussion on Locke’s theory of property but is worth giving a contemporary example here. Simon Springer (2013) documents how a new land law and associated registration program in Cambodia, introduced to “improve land tenure security”, instead “significantly increased the vulnerability of Cambodians to landlessness by intensifying the need for written certification to prove ownership” (p. 3). The law invalidated customary landholdings “rooted in orality” and “possession” and legitimised the eviction of people from lands they possessed but didn’t formally own under the new property rules (Springer, 2013).

Of course, not all interventions aimed at creating, expanding or strengthening modern private property were/are designed to dispossess the established landholders and they do not always entail massive and forcible changes to established tenure on the ground. For example, in the late 19<sup>th</sup> and early 20<sup>th</sup> century Colombia, the rules governing the titling of State lands were meant to favour peasant settlers and the formalisation of existing smallholdings, and theoretically did not imply destroying prevailing 'land-based social relations'. In practice, however, the privatisation process disproportionately favoured elite groups and many smallholders were dispossessed (see chapters 3 and 4).

So, even well-meaning programs and policies have incentivised and facilitated land grabs. This point is compatible with the overall claim put forward in this section but might also be expressed more specifically: *titling and formalisation programs, and land privatisation processes more broadly, are often a mechanism of dispossession* (claim 2.1a). This claim is supported by empirical evidence from across the world (Borras & Franco, 2010; Grandia, 2013; Oliveira, 2013; Springer, 2013) and can be found not only in critical scholarship, but also in mainstream policy-oriented research. For example, the 2011 World Bank publication cited earlier notes: "If done poorly formalization of land rights can indeed provide an opportunity for sophisticated and well-connected elites to grab land" (Deininger et al., 2011, p. 100; see also Deininger, 2003; FAO, 2012). The problem, again, is that despite paying lip service to the importance of power relations and politics, the institutions promoting such programs often treat the risk of dispossession as a technical problem (for a full discussion see Borras & Franco, 2010).

The above is different from another claim (2.1b) commonly found in critical scholarship: *titling, formalisation and registration programs enable market-led dispossession* (Akram-Lodhi, 2007; Akram-Lodhi et al., 2009; La Via Campesina & FIAN, 2004). These programs are often implemented alongside broader neoliberal restructuring and for this reason, according to La Via Campesina and FIAN (2004), generally "have increased [rural peoples'] vulnerability to losing land" (pp. 5-6). This is "why movements like the MST [the Landless Worker's Movement of Brazil] [...] argue that titling land re-creates the dynamic of commodification that allowed (necessitated) theft in the first place: *the poor gain title in order to lose it*" (Wolford, 2007, p. 559, emphasis added). Policymakers working with the World Bank (one of the most important funders and supporters of such schemes) are aware of this criticism: "Observers are often concerned that a better definition of land rights necessarily implies higher levels of transferability, and thereby creates the danger that households could lose their main source of livelihood, for instance because of distress sales

[... But] increasing the security of property rights does not require making them transferable” (Deininger, 2003, p. 76). Nevertheless, the same document is almost entirely focused on the economic efficiency justification of property rights and thus strongly recommends against restricting transferability (*ibid*).

## **2.2) In some contexts, property rights can be used as tool for defending against dispossession and resisting certain aspects of capitalist development.**

Some authors take the overarching claim and related sub-claims of the previous section and turn them into a normative argument against titling and formalisation programs. This is not my position or purpose, for a reason that is well captured by Oliviera (2013): “the establishment of private property rights over as yet unassigned public land is certainly a mechanism through which land grabbing can take place [... however, it is also] a way to legally recognize pre-existing land-use claims of small farmers, thus protecting them from land grabs by powerful national and transnational economic actors” (p. 262). Many *campesinos*, Afro and indigenous peoples across Colombia have fought -and continue to fight- for individual and collective property titles over their land, though they are well aware that this will not magically resolve all their problems. A leader from the Nasa organisation Kwe’sx Ksxa’w explained: collective titles are not compatible with the Nasa understanding of territory (“the *resguardo* creates limits, it locks us in, draws lines”) but, given the context, defending the territory via the creation and expansion of *resguardos* is the only available option (Personal Interview, 2015).

It is worth noting that in Colombia Afro and indigenous groups can apply for collective titles that are non-transferable. Economists often suggest that such collective property rights are inadequate. Hernan De Soto actually called indigenous land titles in Peru (which are or were similar to those in Colombia) “irrelevant pieces of paper” with “practically no function”<sup>25</sup>. But collective land titles do have a function, simply one that doesn’t fit well with

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<sup>25</sup> In *The Mystery of Capital Among the Indigenous People’s in the Amazon*, De Soto argues that indigenous land titles in Peru are useless because they don’t allow these communities to sell, lease, or use their lands as collateral for credit – among other things. He shows that internally these communities trade titles and that many people desire access to credit (etc.) and uses these details to argue for individual property rights. But De Soto’s short film speaks loudest with its silence. It was made in response to the government’s call for “ideas on how to achieve peace in the Amazon” following the 2009 Bagua conflict. The violent clashes arose in the context of indigenous resistance to oil operations in their territories. What De Soto doesn’t say is that individual property rights do NOT allow people to reject oil operations on their lands and hence won’t resolve the issue at hand (Beckett & Soto, 2009).



De Soto's world view: they are a tool for 'defending the territory', as the leader cited above explained. Both indigenous and Afro groups in Colombia continue to demand the legal recognition of their 'land rights' via collective and inalienable (not private tradeable individual) titles. Many value these titles *first and foremost* as tools for shielding against dispossession and displacement and safeguarding or rebuilding cultures that regularly clash with capitalist development.

The people of Nasa Cxha Cxha (Putumayo), for example, applied for a collective title over the lands of La Tocaima, not so that they could mortgage it to the banks, collect compensation from the oil companies, lease it to loggers, develop some agricultural enterprise, or build a housing complex; they did so to prevent these things happening in lands they consider sacred. This is a particular example in that it applies to lands that the community consider to be completely 'off-limits' for spiritual and ecological reasons. But the fact remains that many Nasa see the collective title as a means of defending their way of life from what others call 'economic development'. Similarly, in the Amazon Pearl Peasant Reserve Zone (also in Putumayo) a *campesino* organisation solicited private titles for State lands to prevent a businessman from accumulating more terrain for various commercial projects – the aim was to defend the integrity of the 'territory' (Personal Interviews, 2015).

Of course, property rights, even inalienable collective titles, do not provide full protection against dispossession. In Colombia people *with* formal legal titles over their land have been dispossessed by both the State and private actors. Still, it is important to recognise that, in certain contexts, such titles can and have been used to defend against land grabs. Arguably, it is partially because titling does not automatically lead to land being treated as a mere commodity that the State's power to violate property rights has become so important to capitalist growth. These points tend to be missed by those who focus exclusively on privatisation and enclosures or dispossession associated with the imposition of private property, as discussed below.

### **2.3) The contents, interpretation and application of the law are influenced by complex power dynamics and social struggles, meaning that the legal system can be used as an 'instrument of theft' and to prevent or reverse dispossession.**

In contrast to discourses that blame dispossession on a weak rule of law, many critical theorists emphasise how the law is used to effect and legitimise dispossession - what Liz Alden Wily calls "the legal niceties of land theft". EP Thompson famously described

parliamentary enclosures in England as “a plain enough case of class robbery, played according to the fair rules of property and law laid down by a parliament of property-owners and lawyers” (cited in Wily, 2012a, p. 755). This observation could easily be adapted to other times and places.

According to Wily (2012), in contemporary sub-Saharan Africa most land “transfers are undertaken strictly within the terms of domestic property laws [...] Broadly, these laws are designed to render untitled (but traditionally occupied and used) lands as unowned, and the state, by default, their legal owner” (p. 752). Likewise, Springer (2013) shows that “most dispossessions [in Cambodia] actually proceed through the written articles of law” (p. 4), noting that those who “suggest that what is happening in contemporary Cambodia is a result of the corruption of the law [...] fail to appreciate that law is both the will of the sovereign and subject to the interpretation of those most empowered by its ordering” (p. 15). Levien’s (2011; 2013) analysis of eminent domain (ab)use in India also underscores how the law is used to effect and legitimate coercive land acquisition (see also chapters 6 and 8 of this thesis on State-backed dispossession in Colombia).

Fairbairn advances a related argument based on her research in Mozambique, which unlike many other African countries has laws that theoretically pose “an obstacle to peasant dispossession” (p. 339). In order “to explain how a country with one of the most progressive Land Laws in Africa can also be raising some of the biggest concerns about peasant dispossession”, she argues, we must look to the different “sources of elite power” (Fairbairn, 2013, p. 343), which influence the laws’ interpretation and implementation. Similarly, in this thesis I examine how elites managed to evade elements of Colombian land law that should have hindered dispossession effected by private agents (see chapters 6 and 7).

In the cases described by Wily dispossession is enabled by laws that give precedence to State ownership over customary rights. In the cases described by Springer dispossession is enabled by laws that give precedence to formal private property over historical possession. In the cases described by Levien dispossession is enabled by laws that give precedence to the State’s taking powers, including over private property. Finally, in the cases described by Fairbairn, the problem isn’t necessarily the law itself, but the way it is interpreted and implemented. This is noteworthy because it shows that the typical solutions to land grabs (to prevent instances such as those described by Wily) -changes to the law and/or land formalisation programs- can either act as an enabler of dispossession (as in Cambodia), may fail to prevent it (as in Mozambique), or are largely irrelevant if they do not address eminent domain legislation (as in India).

Despite the proceeding discussion, few would accept the simplistic proposition that the law is merely an ‘instrument of the ruling class’. Changing and complex power relations, class struggles and intergroup alliances, influence the content, interpretation and application of the law. This means that the law may be used to impose or legitimise dispossession but also to prevent, reverse or at least limit such processes. During the colonial ‘scramble’ for Africa, for example, “certain world-wise local leaders [...] used[d] the colonizers’ own laws against them” (Wily, 2012a, p. 758). Fairbairn (2013) shows how “pressure from Mozambican civil society organizations and donor agencies” pushed the government to adopt a “new interpretation of the problematic amendment” that had prevented many communities from obtaining “land certificates”, leaving them vulnerable to dispossession (pp. 349-351). And Levien (2013) presents the case of “farmers [in India who successfully] challenged the acquisition of their land” in the courts by arguing that real estate development does not comply with the public purpose requirement of eminent domain law (p. 400).

Furthermore, while States often act “on behalf of the dominant classes of capital”, they usually also seek to “maintain a minimum level of political legitimacy” (Borras, Franco, et al., 2012, p. 858). This means, for example, that while certain actors within the Colombian government clearly favour the elite groups that benefitted from violent land appropriation, they do not usually openly endorse the outcome but find subtle ways to do so (see chapters 6-7). Meanwhile, other officials denounce land theft and pass legislations to prevent and reverse it (e.g. temporary land market freezes and the restitution program), in some cases because they genuinely oppose the para-elite land grab and in others because they know that State has to maintain a ‘minimum level of legitimacy’.

As suggested in the preceding paragraph, States are not unitary; they “never operate with one voice”. This makes it necessary to examine “the ways in which power flows through the various disaggregated levels and functions of the state” (Wolford et al., 2013, p. 189 and 206). For example, a fairly common story in Colombia is that a judge orders the restitution of stolen land to its original owner only to have local authorities hinder implementation of the legal decision. The list of examples could go on. The point is that these power dynamics and struggles that influence how the law operates are not just played out between governments and diverse social groups, they also involve different State actors.

Of course, law is not the only factor that shapes dispossession. However, as noted by Grajales (2013), “the profitability of land grabbing [usually] requires the institutional recognition of property rights” (p. 223), which implies managing or manipulating the legal

system. So, the contents, interpretation and application of the law *do* matter, but these are not merely technical problems with technical solutions, as stressed above. And, in analysing power dynamics and social struggles and how they affect the legal system we must pay attention not only to material interests, but also to related ideologies.

#### **2.4) Productivist ideologies motivate and are used to justify coercive dispossession.**

Productivist ideologies come in different packages (e.g. in the Global South they usually come wrapped in development language) but they are in essence very similar: productivity, profitability and growth are assumed to be inherently good and are prioritised over other objectives. The ultimate aim, however, is not to increase production *per se*, but rather to continually increase monetary wealth or, in Marxist terms, to perpetually expand exchange value (monetary value being exchange value expressed in the money form), as explained below. In order to illustrate the links between productivist ideologies and dispossession, it is worth looking back to the precursor of productivism, improvement, and how this ties in with Locke's theory of property and historical land appropriation.

The notion of improvement - "the enhancement of the land's productivity for profit" (Wood, 2002, p. 106)- became increasingly popular in Britain during the 17<sup>th</sup> and 18<sup>th</sup> centuries. 'Improving' agricultural practices usually implied the demolition of traditional land use regulations determined by village communities and customary rights, which were an obstacle to productivity and profits (Bragg, 2008; Wood, 2002). As such, "improvement meant something more than new or better methods and techniques of farming. Improvement meant, even more fundamentally new forms and conceptions of property" (Wood, 2002, p. 107).

Locke's theory of property is firmly anchored in the notion of improvement and, according to Wood, was "emblematic of a rising agrarian capitalism" (p. 110). Locke believed that God bestowed the Earth on all mankind, but that when an individual works the land it then becomes his private property by 'natural right' (Hamilton & Bankes, 2010, pp. 47-48). Locke is sometimes credited with having developed a labour theory of landownership. Nevertheless, a closer reading reveals that "there is no direct correspondence between labour and property" (Wood, 2002, p. 111) in Locke's theory for two reasons. On the one hand, Locke believed that man "can acquire a right of property in something by 'mixing' with it not his own labour but the labour of someone else whom he employs" (*ibid*). Were this very important qualification not included, then only the private

property of the direct producer would be defensible under Locke's theory, barring elite landownership and the social relations that define capitalist agriculture. And, as noted by Wood, Locke's ideal man was not the direct producer, but the "great improving landlord" (Wood, 2002, p. 114). On the other hand, what Locke's theory really suggests is that property rights are justified by productivity and profits - "the creation of exchange value" (*ibid*). Wood concludes: in "conflating labour with the production of profit, Locke becomes perhaps the first to construct a systematic theory of property based on [...] capitalist principles" (p. 113; see also Springer, 2013 and Levien, 2011).

It is important to remember, as Wood points out, the context in which Locke was writing. The idea of improvement -at the centre of Locke's theory of property- was central to the political and legal discourse used to justify dispossession. Within England judges began to accept improvement as valid grounds for the extinction of customary rights. This same logic was extended abroad (Wood, 2002, pp. 109–110; 115). In fact, Locke directly advocated for colonial land grabs in North America using the notion of improvement: the 'Indians', he suggested, did not legitimately own the land because they had failed to put it to profitable use. Similar arguments were used almost a century earlier by Sir John Davies to justify and promote the English land grab in Ireland (*ibid*, pp. 157-160).

Both Locke's theory of property and the English government's justification for its colonial land grabs were based on the idea that unused land could be claimed by the person who occupies it and makes it productive. In this sense neither were particularly original. The notion of *terra nullius* can be traced back to the Roman Law concept of *res nullius*: things that did not have an owner or had been abandoned by their original owner could be claimed as property through possession. But, as argued by Wood (2002), John Locke and the English imperial State "took the argument a major step further by justifying the seizure of land that was indeed occupied, and perhaps even cultivated, on the grounds that the occupants had failed to use the land productively and profitably enough" (p. 162). In other words, neither occupancy nor use was sufficient grounds for acknowledging property rights, at least in the case of the peasantry at home and the Irish and 'Indians' abroad (*ibid*, p. 163).

Wily (2012) emphasises the similarities between legal proceedings surrounding land usurpation from different regions and epochs, arguing that three notions remain essentially unchanged: 1) lands that are not part of the capitalist system of property and production are represented as vacant; 2) alternative systems of land use and ownership are portrayed as obstacles to growth and progress; 3) and dispossession is depicted as serving the public interest. Drawing on Wood, the latter is redefined as the generation of exchange value.

Indeed, Locke argued that landowners who carried out enclosures were “creating value and therefore giving something to the community rather than taking it away”. Similarly, English imperialists claimed that “the colonizer, in expropriating local populations, was not robbing subject peoples but adding to the common good” (Wood, 2002, p. 165).

It is important to stress that for all the emphasis on productivity and increasing production, exchange value and profits were/are the central concern within a capitalist society. Within a single sector the principle of productivity is simple: a farm producing 15 tons of avocados per hectare per year on average, versus one that only produces 8 tons, clearly has a higher level of productivity. But how can we determine (e.g.) that a ‘sheep-walk’, as Marx called it, constitutes a more productive use of the land than an open field system producing various food goods? In order to claim that pastureland was an ‘improvement’ relative to the type of land use it replaced, we have to introduce exchange value (measured in money) into the equation. An expansion of exchange value is usually associated with a growth in production of goods and services that have use value. But it should not be forgotten that the latter (use value) is subordinate to the former (exchange value) and in some cases the two are at odds. This is a wider characteristic of capitalism but has specific implications for the political economy of land, as illustrated by Marx in his discussion of declining production and rising profits in Ireland in the 19<sup>th</sup> century (1867, I-25, pp. 854-859). The “depopulation of Ireland” due to famine and emigration had “thrown much of the land out of cultivation”. But despite “a decrease in the total product”, Marx explains, “the profits of the farmers increased” since “a larger part of the total product was transformed into a surplus” and “the monetary value of this surplus product increased [...] owing to the rise in the price of meat, wool, etc.” (*ibid*, p. 860).

Drawing on political ecology, and the notion of ‘the capitalist growth imperative’ (term used by Magdoff & Foster, 2011; Magnuson, 2013)<sup>26</sup>, I would argue that productivist ideology has shaped our societies so profoundly that it now no longer simply motivates or guides but also constrains and compels actions. Capitalist socio-economic systems are organised in a way that creates an illusion of dependence on continual economic growth for

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<sup>26</sup> Kallis points out that capital accumulation can occur in low or no growth situations and thus concludes that “there is no [capitalist growth] imperative in the abstract, but only in the concrete sense that capitalism becomes politically and socially unstable if it fails to produce growth” (Kallis, 2015b). Magdoff and Foster (2011) use the latter point to defend the growth imperative concept: “a steady-state capitalist economy is only conceivable if separated from the reality of the social, economic and power relations of capitalism itself” (p. 56). In any case, Kallis agrees that “a transition beyond growth will entail a transition beyond capitalism, since the essence of capitalism is accumulation and expansion” (Kallis, 2015a).

human wellbeing. We only need to consider the typical consequences of zero or negative growth to conceive of this dependence: layoffs and rising unemployment, declining household incomes, dwindling government revenues and associated spending cuts, and so on and so forth.

Nevertheless, economic growth is an indirect and inefficient means for satisfying human needs. Rather than implementing projects aimed at improving wellbeing, our societies focus on generating growth that may or may not improve wellbeing in some respects, while often worsening it in others. Furthermore, in capitalist economies growth is largely driven by capital accumulation in which profits, derived from the exploitation of wage labour, are reinvested in the production process with the aim of extracting more profit; in other words, it “is based upon the production and reproduction of exploitative capital-labour relations” and in this sense is uniquely *unsuited* to promoting human flourishing (Selwyn, 2014, p. 14). Notwithstanding mounting criticisms, even from within the establishment (thanks to authors such as Amartya Sen and the UN’s Human Development Index), the “growth paradigm [... or] the proposition that economic growth is good, imperative, essentially limitless, and the principal remedy for a litany of social problems” (Dale, 2012) prevails.

Gareth Dale argues that growth serves as a “means of ideological mystification”. Under the growth paradigm “the interests of capital come to be identified with the common good, because the profitability of capital [...] appears as a necessary condition for the satisfaction of all other interests” (Dale, 2012). The “concept has functioned for decades, even centuries, as a metonym of capital accumulation”, he argues (Dale, 2012). I would add that economic development, frequently used as a metonym for growth, also has a key role to play in this ‘mystification’. And yet, zero or negative growth genuinely impacts people’s lives, especially those who depend on selling their labour power for wage. Above, I called the dependence on growth illusory because it is possible to conceive of a society organised differently and because growth does not necessarily translate into human wellbeing. But the growth imperative is real in so far as governments are compelled to promote growth and citizens are compelled to demand it, as emphasised by Dale, Magnuson and others.

Among the most violent acts (physically and symbolically), committed in the name of growth or development, are dispossession and displacement. As discussed in Chapter 1, various countries have changed their laws or reinterpreted existing ones so as to enable coercive acquisitions for private investments that are projected to generate more exchange value than the existing land use. In some cases, this involved an explicit redefinition of

public purpose or interest to include economic growth or development. Hence, the motivating and justifying role of productivist ideologies is most obvious in the case of State-backed dispossession. But even dispossession effected by private agents is shaped by productivist ideologies. In Colombia, many paramilitary commanders saw themselves as agents of economic progress and used this to rationalise their involvement in land theft, presumably to themselves as well as to others. Businessmen involved in violent land usurpation also use these discourses to defend their actions. Furthermore, the land grabbers received support from a variety of State actors, arguably *partially because* the latter looked well upon the land-use changes being imposed via dispossession. Like the former DfiD employee cited earlier, it seems *some* government officials in Colombia were willing ‘to tolerate human rights abuses in exchange for development’.

Many dispossession researchers focus on specific ideologies, an issue I take up in the following section. Nevertheless, it is useful to highlight the commonalities -as well as the differences- between the different doctrines that motivate and are used to justify dispossession: “improvement” (Wood, 2002), “modernisation ideology” (Gellert & Lynch, 2004; Fairbairn, 2013; Oliveira, 2013), “national developmentalist ideology” (Oliveira, 2013), the “ideology of state-led national development” and “the neoliberal growth model” (Levien, 2013). Most would agree with Gellert and Lynch’s (2004) general argument that to explain “why displacement [and dispossession] happens”, we must look to the diverse ideologies that sustain these practices and the power-dynamics of the “epistemic communities” that perpetuate them (pp. 20-23).

One final point: productivist ideologies do not affect everyone equally. More precisely (claim 2.4a): *because of unequal power dynamics, dispossession is systematically more likely to affect labouring classes* (variations of this claim and/or evidence to support it can be found in e.g. Gellert & Lynch, 2004, p. 23; O’Connor, 2005, pp. 12–13; Thomas, 2005, pp. 17–18; Carpenter & Ross, 2009; Levien, 2013, p. 403). There are multiple possible explanations for this class bias. For example: land and homes in areas mostly inhabited by labouring classes usually have a lower ‘value’, making compensation for expropriation less costly. In the Global South, many smallholders and slum dwellers don’t have property titles in the first place, making it even easier and cheaper for governments to take their land. The list could go on. Here I would like to emphasise elite’s relative immunity to the punitive side of productivism, evinced in Colombia by the persistence of large properties that remain un- or under- used. Fairbairn (2013) makes a similar argument regarding Mozambique: elites control lands that are “not productively used but rather kept as a reserve of value [...] These



land parcels act as an obstacle to genuine agricultural development but are difficult to revoke because of the political power of those who own them” (p. 347). An analogous point is also made by Visser et al. (2012) in the context of Russia (p. 924). Of course, the ways in which power dynamics between and within different social classes influence dispossession are varied and complex. The point here is that elites are less likely to have their property confiscated or expropriated, even when their ownership encumbers the generation of exchange value and vice versa. This doesn’t mean governments never take land belonging to elites; I simply wish to highlight a tendency.

## **2.5) Specific trajectories and visions of economic development influence the prevalence and character of dispossession.**

Of course, productivist ideologies do not uniformly generate dispossession. Instead, it is specific trajectories and visions of economic development, themselves the subject of social struggles, that influence the prevalence and character of dispossession. One broad but particularly problematic doctrine can be summed up as: ‘the bigger the better’. Gellert and Lynch (2004) examine the interests, conditions, constraints and beliefs that create a “bias toward larger scale” or “megaprojects”, which are “inherently displacing” (pp. 15 and 20-23; see also Grandia, 2013). Consider, for example, the implications -in terms of dispossession and displacement- of choosing to promote a giant hydroelectric dam instead of a decentralised energy system or of fostering industrial open-pit mining over labour-intensive small-scale methods.

The ‘bigger is better’ penchant takes on a specific form within agriculture. In later chapters, I argue that dispossession in 21<sup>st</sup> century Colombia has been significantly influenced by the mounting obsession with turning the country into an export-oriented agroindustrial powerhouse via the promotion of large-scale projects. I also show how the government’s rural development model has incentivised, facilitated and been served by dispossession. But this was not always the case: arguably, the political will to address elite-led dispossession was strongest in the early 20<sup>th</sup> century when smallholder agriculture was supporting industrialisation; this resolve weakened as the government veered towards a ‘landowner path’ of agrarian development around the 1940s. In short, the specific trajectory and vision of economic development in Colombia has influenced the allocation of public resources, the behaviour of government officials, and the content, interpretation and application of the law in ways that have enabled dispossession effected by private actors.

Similar arguments can be found in research on other countries. For example, Visser et al. (2012) indicate that it is difficult to tackle fraudulent land dispossession in Russia in part because many “local authorities are strongly in favour of large-scale land acquisitions” (p. 923). And Fairbairn (2013) looks to “control over the development agenda” as one among five “sources of elite power” that “explains how it is that communities’ legal *right* [...] is not the primary determining factor in deciding who gets Mozambican land” (pp. 342-343 and 349, emphasis in original). Those who control this agenda view “industrial, export-oriented agriculture catalysed by foreign direct investment as the best route to Mozambican agricultural development” (p. 350). This development vision, she suggests, has motivated subtle changes to the land laws in Mozambique that indirectly facilitate dispossession.

Conversely, a vision of development based on small-scale agriculture may push the government “to defend the rights of smallholders against dispossession” (Fairbairn, 2013, p. 351) or even to implement redistributive land reform. The latter is one of very few examples where (a specific type of) productivist ideology, even within a capitalist context, may impel socially progressive rather than regressive coercive redistribution. As explained in Chapter 5, this was part of the structuralist school’s proposal for import substitution industrialisation (ISI) and there was some support for this idea among policymakers and politicians in early 20<sup>th</sup> century Colombia, but genuine reform was ultimately blocked by the landowning elite.

Beyond diverging visions of agricultural development, various Latin American scholars suggest more broadly that a growing dependence on primary commodity exports (e.g. oil, coal, precious metals, unprocessed food goods, etc.) and the rapid expansion of new infrastructure to support this extractive economy is the underlying driving force of massive waves of dispossession and displacement across the continent in recent decades. Maristella Svampa, for example, argues that Latin America has been undergoing a “process of re-primarisation” and that this economic model, “based on an over-exploitation of largely non-renewable natural resources [...] requires] a concentration of landownership and a destructive re-configuration of vast territories”, which has created a renewed “dynamic of dispossession” (Svampa, 2013, p. 119 and 131). It is evident that the extractive development model has significantly shaped the scope, scale and character of dispossession.

As I argue in Chapter 6, the growing economic dependence on mining and oil extraction in Colombia necessitated a particular “regime of dispossession” (concept borrowed from Levien), which tenuously rests on the insistence -of mainstream media, businesses and government functionaries- that Colombia cannot ‘develop’ without these

industries. I suggest that this model is perpetuated by real pressures and constraints given that these sectors now account for a majority of foreign exchange earnings in a context of rising reliance on food and industrial imports following trade liberalisation. In addition, the State has become dependent on income from extractive rents and may face very costly lawsuits -backed by international treaties- if it backs down from this economic model.

Levien's work (2013) is particularly relevant to this subsection, given its unique emphasis on "socially and historically specific political and ideological factors" and the resulting "variations in dispossession across space and time" (p. 383). This is the basis of his "regimes of dispossession" concept, referred to above. Levien (2013) compares dispossession in India during "the developmentalist and neoliberal periods", focusing specifically on "steel towns" and "Special Economic Zones" respectively (pp. 381-382). The former were coordinated by the State as part of a national industrialisation plan, and generated large amounts of employment. Resistance to dispossession for these steel towns was weakened because such projects enjoyed "significant legitimacy among a broad Indian public" (pp. 384-387). The latter, in contrast, are private projects in which real estate companies profit from developing and reselling land (acquired by force) for high-end housing, offices used by IT and other service sector firms and to a lesser extent for use by export-oriented manufacturing ventures, among other things. The use of the State's taking powers for these Special Economic Zones is widely contested, including by some government officials, and related resistance has had *considerable* successes (Levien, 2013, pp. 394-400). This is, then, a clear illustration of how specific trajectories and visions of economic development influence the character of dispossession (though perhaps, in this case, not the prevalence) and associated struggles.

## **2.6) Land dispossession is integral to the development of capitalism and subsequent capitalist development.**

Many critical scholars analyse land dispossession as a variable attribute of capitalism (see e.g. Borras & Franco, 2012; Borras, Kay, et al., 2012; Edelman et al., 2013; Levien, 2013; Oliveira, 2013; Springer, 2013; White et al., 2012). Still, there is no clear agreement as to the nature of this relation<sup>27</sup>. Coercive land appropriation is an age-old phenomenon and even

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<sup>27</sup> The word 'integral' (used in the subsection title), defined as "necessary and important as a part of a whole" *or* "contained within something; not separate" ('integral', 2019), points to this relation without affirming a law of causality in either direction.

in contemporary settings is not always tied to the dynamics of capitalism (see e.g. Hall, 2013, p. 1592). What, then, makes dispossession specifically capitalist? The previous sections already suggest part of the answer, but this issue requires direct consideration, especially given the discrepancies it has generated.

Analyses that draw on Marx's account of primitive accumulation highlight the role of land grabs in "the creation, expansion and reproduction of capitalist social relations" (Hall, 2013, p. 1594). The problem, as noted by Hall (2013), is that there is "substantial variation and ambiguity" concerning what "capitalist social relations are" (p. 1585). Nevertheless, in general, "such accounts focus [...] on] the enclosure of common land [...] the creation of private property rights to the land [...] and on the (eventual) proletarianisation of the dispossessed". The overall idea being that "new people and resources are still being incorporated into capitalist social relations" and that "those social relations need to be reproduced" (Hall, 2013, p. 1585).

The discussion in this subsection mostly focuses on the underlying causes of land dispossession within a capitalist context, but first, let us consider the question of outcomes. Clearly, the outcomes of dispossession are innumerable, varied and context-specific: ranging from direct impacts such as the probable impoverishment of the dispossessed and possibly violent conflict if they resist, to consequences arising from the new land use imposed via dispossession, such as environmental problems and landscape change or the enrichment of the beneficiaries and perhaps a localised or even national economic boom – to name just a few. For present purposes, I focus on the broad outcomes highlighted by Hall (2013): people, land, and related resources are incorporated into capitalist social relations. The problem with this framing, as noted by Hall, is that it suggests the affected people, land, and resources "were previously and straightforwardly 'outside' capitalism" (p. 1596).

I would argue more broadly that an overemphasis on proletarianisation as *the* key outcome of land grabbing implicitly suggests that the dispossession of 'proletarianised' or 'semi-proletarianised' households, or smallholders engaged in production for markets who may themselves hire wage labourers, is irrelevant to critical scholars interested in the relationship between coercive land acquisitions and capitalism. The forcible conversion of self-sufficient producers into dependent wage labourers -or one of the many unemployed that make up 'the reserve army of labour'- is ongoing in many parts of the world and this is an important issue, but there is no reason to limit our analyses of land dispossession to this process and this is not the only way in which dispossession 'contributes' to capitalist development - nor is it necessarily the most important 'contribution', especially in the

contemporary context. Furthermore, not all dispossession turns the original landholders into proletarians or unemployed wage-labourers in waiting; the dispossessed might be squeezed onto a smaller area, seek new land elsewhere or be relocated to another plot.

Moving on, the claim that dispossession results in land and related resources being incorporated into capitalist social relations could mean various things. For example, land previously used for subsistence is now exploited by capitalist firms that employ -and simultaneously exploit- wage labourers. Again, this *is* happening in Colombia and other parts of the world. But I think it would be a mistake to limit analyses of the dispossession-capitalism nexus to this outcome, for reasons similar to those mentioned in the preceding paragraph (e.g. is the dispossession of commercially-oriented smallholders not relevant?). Furthermore, many authors associate this outcome with land being 'privatised' or 'enclosed'; however, the two don't necessarily go together.

Earlier, I referred to the subordination of land use to the demands of capital accumulation as one of the key outcomes of primitive accumulation, as described by Marx. Note: this is different to land being exploited via prototypical capitalist relations of production; for example, the demands of capital accumulation might well be served by commercialised family farming. The problem I am interested in here is that it is often assumed or implied that once land has been brought under a modern property regime, 'the job is done', so to speak. While it is true that historically the imposition of modern property rights has tended to mobilise land for capitalist development, it is also true that land can be made to serve to the demands of capital accumulation without being fully privatised and vice-versa: lands already privatised might not be used 'productively or profitably enough' relative to these demands. Hence, it is insufficient to focus on privatisation and enclosure as the key 'outcomes' of dispossession and in particular when considering how these processes contribute to capitalist development.

Turning to underlying causes, it is sometimes implied that dispossession occurs because capitalist production requires wage labourers. However, it is important to distinguish between policies and practices *designed* to acquire or control labour, and actions and processes that *incidentally* serve this end. In Marx's account of primitive accumulation in England and Scotland the usurpers were interested in expelling peasants to make way for more profitable land uses such as 'sheep-walks' and 'deer-preserves'. The land grabbers were not primarily concerned with creating a wage labour force for emerging capitalist industry; this -Marx implies- was an unintended and long-run consequence of actions mostly motivated by different pursuits.

The above contrasts with Marx's (1867) depiction of EG Wakefield's proposals for "systematic colonization", which were clearly "aim[ed] at manufacturing wage-labourers" (I-33, p. 932). Wakefield had observed the quandary of wealthy Europeans who upon arriving in Australia, the USA and other colonies found they could not make their money and machinery productive due to the lack of a constant supply of cheap wage labourers. Many working-class immigrants preferred to venture into the vast 'frontiers' and produce for themselves (*ibid*). Thus, colonisers such as Wakefield, "discovered that capital is not a thing but a social relation between persons which is mediated through things" (*ibid*, p. 932). Wakefield recommended that "the government set an artificial price on the virgin soil [...] that compels the immigrant to work a long time for wages before he can earn enough money to buy land" (*ibid*, p. 938). In practice, it was both "the shameless squandering of uncultivated colonial land on aristocrats and capitalists", and continuous "wave[s] of immigration" that resolved the labour shortages in the USA and Australia (*ibid*, p. 940).

Elites across the globe encountered this land/labour 'problem' and commonly attempted to resolve it via land grabs and dispossession. Deininger (2003) provides a list of the various methods used by Europeans to obtain and control workers in Asia, Africa and the Americas. Most relevant for the discussion here was the 'artificial restriction of land supply': colonisers claimed exclusive property rights over large areas for the sole purpose of preventing local populations from becoming independent producers (pp. 11-15). Interestingly, this is presented as a political 'distortion' of the true function of property rights (Deininger, 2003). In any case, the point is that, historically at least, land grabs *were* often aimed at acquiring and controlling workers. Nevertheless, I would also stress that the objective was not always the creation of a proletariat class. This thesis shows that in Colombia *varied* policies and practices of dispossession and displacement, from the colonial times up until the beginning of the 20<sup>th</sup> century, were motivated by elite interest in appropriating surplus labour from the direct producers, but that the dispossessed were drawn into *non-capitalist* relations of production.

What of the relevance of labour control to explaining more recent processes of dispossession? More specifically, to what "extent [...] do contemporary] land grabs *aim* to create 'free' proletarianised labourers"? (Hall, 2013, p. 1596, emphasis added). I tentatively propose that dispossession *motivated* by labour acquisition tends to decline as capitalism develops, while dispossession driven by interest in the land and its resources tends to increase. In the Colombian context at least, this has been the most marked change in the dynamics of dispossession since the mid-20<sup>th</sup> century.

I do not wish to deny that dispossession and displacement generate giant “camps of surplus labour” (Araghi, 2009, p. 112), which exerts a downward pressure on wages. However, to claim that this is *why* land dispossession happens or *why* it “is central to contemporary capitalist accumulation” (Hall’s interpretation of Araghi, p. 1596) is different altogether from claiming that it is an outcome. Nor do I wish to deny that capitalist firms often “need both land and labour” (Borras & Franco, 2012, p. 53). But, as these authors suggest, in such cases investors are more likely to seek “contractualized relationships” that allow them “to control land while avoiding dispossessing smallholders” (*ibid*). And the question here is whether labour control is a common *motivation* for *dispossession*. In contemporary Colombia, the answer is negative.

My proposition seems to be supported by other research focused on diverse contexts. Saskia Sassen observes broadly that the recent “massive expulsion of people is not simply more of the same [...] One brutal way of putting it is to say that the natural resources of much of Africa and good parts of Latin America count more than the people on those lands count as consumers and as workers” (Sassen, 2010, pp. 25–26). Levien (2011), writing on dispossession in contemporary India, explains that this process is linked to a “capital-intensive development in which the labour-power of the dispossessed peasantry is largely irrelevant” (p. 458). Tania Li, who is famous for “centering labor in the land grab debate”, does so precisely to highlight “the predicament of people whose labor is not needed by the global capitalist system” (p. 281) but whose land is. In general, as noted by Hall (2013), recent land grab research “finds few indications of a ‘strategy’ to generate a labour reserve” (p. 1596). Perhaps most interesting are the basic similarities between these observations about contemporary land dispossession, and a comment made by Ellen Wood regarding the historical development of capitalism:

In pre-capitalist societies, land with labour attached to it [...] is generally more valuable than land by itself. Command over people is more immediately important than direct command over land. [...] In capitalism, there is certainly a need for a labour force, but where competitive pressure to increase labour-productivity is the driving imperative, there are entirely new reasons for concentrating property, and entirely new reasons for dispossessing direct producers (Wood, 2002, p. 152).

In the examples from England and Scotland discussed above, the *expulsion* of people was a defining feature of the process. This is precisely what was deemed so remarkable at the time: the British countryside became so incredibly productive that despite -or even because of- depopulation, it was able to supply enough goods for those who had been forced out and many more, as the total population grew (Overton, 2011; Wood, 2002). Marx observed that demand for labour could not keep up with the supply being generated by the forced displacements (1867, I-28); in the contemporary context, capitalist industries are -arguably- even less well positioned to ‘absorb’ the labour power of the dispossessed and displaced. My point, however, drawing on Wood (2002), is that, arguably, even in the early stages of capitalism, what made dispossession driven by capitalist dynamics *unique* was the elite’s interest in the exchange-value-generating capacity of the land itself.

While mainstream discourses tend to emphasise population growth as the main cause of growing pressures on land (see, for example: Deininger, 2003; Cernea, 2004; Deininger et al., 2011), critical scholars look to the expansionist tendencies of capitalism and/or capitalist accumulation imperatives (see e.g. Wily, 2012a, p. 752; Borras & Franco, 2012, p. 49). Focusing on the contemporary context, Borras et al. argue that “the distinctive feature of current land grabs is that they occur primarily because of and within the dynamics of capital accumulation strategies responding to the convergence of multiple crises: food, energy/fuel, climate change and financial crisis [... and] the emerging need for resources by newer hubs of global capital” (Borras, Kay, et al., 2012, p. 404).

All of these specific reasons for recent interest in land acquisition are important, but I would argue more broadly, drawing on political ecology, that ‘*the capitalist growth imperative*’ described above *creates systemic land pressures* in three main ways. A growing world economy means (i) expanding demand for raw materials and (ii) the continual transfiguration of space into sites of transport, production and consumption; (iii) additionally, during periods of recession, governments often attempt to reboot the economy by investing in infrastructural projects or promoting urban redevelopment programs.

(i) Historically and currently, economic growth is inextricably tied to an expanding use of natural resources: more silver, copper and gold for the circuit boards in our new computers; more oil for the plastics in our throw-away cutlery and toothbrushes; more cotton for our cheap t-shirts; more coal for the energy plants powering the factories that produce these goods; and so on and so forth. Ecological economists and political ecologists call this “material throughput” growth (though the concept applies to the matter and energy used in the *whole* economic cycle, from extraction to disposal). Discussions surrounding



throughput usually focus on (a) how resource use can be reduced without sacrificing economic growth<sup>28</sup>; (b) whether throughput and economic growth can ever truly be ‘decoupled’; and (c) presuming the answer is ‘no’, how a no-growth economy would function; and (d) whether capitalism is compatible with zero growth. Despite disagreement on these specific points, there is broad consensus regarding the physical impossibility of infinite throughput growth and the ecological unsustainability of our existing practices (Kallis, 2015b; Magnuson, 2013; Magdoff & Foster, 2011; UNEP, 2011).

The reasons for including the issue of material throughput in this thesis are comparatively modest (I am not asking questions about how to re-organise the economy in order to prevent mass extinction): I believe that in order to truly understand what underlies contemporary dispossession, we must look to the expanding consumption of raw materials and hence the ever-changing demands being placed on land use. How is land mobilised to serve economic growth or how is land use subordinated to the requirements of capital accumulation? In Colombia, as in many other parts of the world, this has often involved coercion. Overall, at present and historically, securing the natural resources that keep the global growth machine running involves dispossession.

(ii) Land not only accounts for most resources, it is also the space where we transport, produce and consume and also where we dump much of our waste<sup>29</sup>. Hence economic growth requires not just expanding resource use, but also (e.g.) new pipelines to carry the oil that fuels our cars or the gas that heats our water; additional roads, railway lines, air and sea ports to transport consumer goods, from cars to clothes; new factories in which to produce these cars and clothes; and more retail space from which to sell them. These projects are just as essential to the growth machine as the extraction or production of raw materials. The question arises again: how is the land for these projects secured? It certainly isn’t always through free markets, as mainstream economists would have us believe. In

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<sup>28</sup> A 2011 United Nations Environment Programme report suggests that “relative resource decoupling is [already] happening” (UNEP, 2011, p. 51). An estimated “25% less material input was required in 2002 compared to 1980 to produce one unit of real GDP” (p. 48). Nevertheless, this does not imply an absolute decline in resource use. The report examines three scenarios. Only the third scenario maintains the *same* level of *annual* global resource extraction (using the year 2000 as a baseline and the year 2050 as the endpoint), supposing that “metabolic rates of industrial and developing countries converge at around 6 tons per capita per year” (pp. 30-31). Even this best-case scenario, which the authors suggest is unrealistic (it “can hardly be addressed as a possible strategic goal” - p. 31), does not reduce absolute *annual global* resource use.

<sup>29</sup> Clearly, resources may also be extracted from water. Furthermore, seas, rivers and the atmosphere are also spaces of transport and receive much of our ‘waste’. However, this thesis focuses on land. Water and air are discussed in so far as they link to land dispossession and associated displacement.

Colombia, as we shall see, pipelines and seaports have been built in the wake of violent displacement. Though the forms these processes take in Colombia are peculiar, the dispossession itself is not. For example: Levien's series of articles on dispossession in India reveal a *reliance* on the State's taking powers to secure land for the country's Special Economic Zones. Examples abound in the Global North as well: consider the recent conflicts surrounding the Dakota Access and Key Stone pipelines in the USA; construction is *dependent* on the use of eminent domain powers to acquire easements -land use rights- against the will of many affected people (Aisch & Lai, 2017; O'Connell, 2018).

(iii) So far, I have argued that economic growth is coupled with increasing resource use and demand for space within which to produce, transport, and trade – which leads to mounting land pressures and sometimes dispossession and displacement. My final point here is slightly different: rather than economic growth being the source of land pressures, governments take land in order to implement projects aimed at boosting the economy. In practice, it may be difficult to distinguish one from the other (e.g. a dam could be built to service a growing economy or to encourage growth in a stagnant one), but the distinction is relevant, as shown below. The most obvious example of recession-responsive land pressures are urban renewal or redevelopment schemes, specifically those designed to attract investors and thus generate employment and tax revenues. In the USA, local authorities frequently justify dispossession and displacement on the grounds that the new land uses -e.g. conference centres, hotels, office buildings, casinos, resorts- will stimulate a floundering economy (Simon, 2004; Stevens, 2005).

The above is related to, but also distinguishable from, the use of public spending to tackle unemployment and kick-start economic growth. This could involve non-land related interventions (e.g. pumping public money into research or health care), but job creation through infrastructural investment is perhaps the most well-known example. According to Harvey, “the Chinese have kept their economy growing and sought to absorb their labour surpluses (and curb the threat of social unrest) by debt-financed investment in huge mega-projects” (Harvey, 2004, p. 65). And, such mega-projects usually involve dispossession and displacement, as discussed earlier.

This point overlaps with Harvey's concept of “spatio-temporal fixes”. Harvey argues that “geographical expansion and spatial reorganisation” help to absorb surplus labour power and surplus capital and hence to temporarily overcome “overaccumulation crises” in which the economy stalls or slows down due to a dearth of profit-making opportunities. However, my overall argument is distinct from Harvey's accumulation by dispossession

(ABD) thesis largely because I am interested specifically in coercive *land* acquisition. Furthermore, because Harvey examines dispossession -first and foremost- as a temporary solution to recurrent over-accumulation crises, he tends to overlook its role in capitalist development more broadly. Points i. and ii. above point to growth (rather than crisis) as an underlying driver of land grabs. Harvey recognises that accumulation by dispossession and accumulation through expanded reproduction are “dialectically intertwined”, but also insists that there is an inverse relation between the two. It may or may not be true that dispossession increases during times of crises, but scholars interested in the political economy of land must also consider the role of coercive acquisition in periods of ‘strong growth’, as Harvey calls them. In sum, an overemphasis on “dispossessory responses to capitalist crises” (Hall, 2013, p. 1598) -a central theme in much of the recent land grab literature- can be misleading (for a different and more detailed critique of the land grab-crisis nexus thesis, see Hall, 2013).

To complicate matters further, Harvey (2004) *implies* that the types of projects discussed above -infrastructural investments and urban (re)development- are an *alternative* to accumulation by dispossession. Arguably, this is a result of him affixing the ABD concept to neoliberal imperialism. For example: in the post-war years the US

could even afford to open its market to others and thereby absorb through internal spatio-temporal fixes, such as the interstate highway system, sprawling suburbanization, and the development of its South and West [...] Strong growth through expanded reproduction occurred throughout the capitalist world. Accumulation by dispossession was relatively muted (Harvey, 2004, p. 77).

The hundreds of thousands, perhaps millions, of people forcibly displaced by highway construction and urban renewal projects in the USA during the 1950s and 1960s (see e.g. Miller, 2016; Weingroff, 2017), might dispute the above claim. Do such ‘internal spatio-temporal fixes’ not count as accumulation by dispossession? Perhaps Harvey is merely suggesting that ABD was less prevalent during the post-war period or that these projects should be distinguished from those imposed in foreign territories by imperialist powers, but he often *suggests* that such ‘fixes’ are somehow distinct from accumulation by dispossession (see also pp. 80-82).

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So why is land acquired via coercive dispossession rather than voluntary market-exchange?<sup>30</sup> The first answer to this question is very simple: it is usually cheaper to acquire land through extra-economic coercion than via consensual transfers, and it makes sense that profit-oriented investors and businesses would do so if conditions are favourable. However, this answer is unsatisfactory on multiple levels. To properly respond to the above question, we must examine the specific historical, social, economic, political and legal factors that encourage and enable dispossession, whether effected by private actors or explicitly backed by the State's taking powers. This is the task taken up in chapters 6-8 of this thesis regarding Colombia.

We might also reformulate the question: why is the State unable or unwilling to halt dispossession effected by private agents or why does it use its own powers to impose such dispossession? Productivist ideology and the growth imperative are part of the answer, but it is also vital to look at more context-specific factors such as the power dynamics and social struggles that influence the specific trajectory of economic development and the content, interpretation and application of the law - as discussed in the preceding sections.

Implied above is that investors and companies *could have or would have* acquired the land through voluntary agreement were the conditions for dispossession not favourable, but this is not necessarily the case. As noted earlier, some projects simply would not proceed if the investor were required to procure land through voluntary negotiations (see also Levien, 2011, p. 463). Investors -whose main concern is typically profit margins- may be unwilling to pay enough to actually induce people to sell/rent their land voluntarily. Put simply: market land prices can inhibit or limit investment<sup>31</sup>. Hence, the (adapted) World Bank claim that coercive acquisition may be required *when the investor cannot procure the land at a 'reasonable cost'* (claim 1.7a), that is relative to profit margins.

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<sup>30</sup> Among the sources consulted for this thesis, Levien's (2011) article is the only example of critical research that tackles this question head on.

<sup>31</sup> Consider that in some areas of Colombia and at certain moments in time, speculative accumulation pushed the cost of land above its 'productive value'. In other words: "there is [or was] no legal activity that could generate the new levels of rent necessary to cover the cost of the land" (Benítez Vargas, 2005 cited in Thomson, 2011, p. 345). This is one reason agribusinesses and other investors prefer to purchase in conflict zones where land costs are lower. At present in Colombia the government is not explicitly authorised to use its taking powers for agricultural projects, but even if it were, it is unlikely it would use these against elite groups with high-value lands, as explained earlier.

Another question arising from the World Bank justification of dispossession is whether the investor could acquire land at a reasonable cost and *in the 'appropriate site'* through voluntary transactions. Investors' choice of location is not always so flexible. Mining and oil companies, for example, require land in very *specific* locations. The same thing could be said about companies constructing ports and hydroelectric dams. Even projects that appear to be relatively location-flexible face constraints: mechanised agriculture requires flatlands (not mountainous slopes) and the right agro-ecological conditions; hotels are more likely to be profitable if they are located on beachfronts or near tourist attractions; factories need to be well connected for transport; and so on. And land in these specific locations is not always readily available for purchase or may be inhabited by people who are simply unwilling to sell, in some cases, regardless of the offer.

The third point relates to the question of land assembly, brought up by the Law and Economics scholars. Whatever the deficiencies of their overall theory, it is empirically correct that projects requiring large and contiguous areas of land face difficulties in acquiring it via market transfers. The open-pit gold mine in Marmato (mentioned in the introduction), for example, would have required the relocation of thousands of people; what are the odds that the company could successfully get all of them to sell their homes, businesses and farms voluntarily and at a 'reasonable cost' relative to profit margins? This issue is also brought up by Levien (2011), who notes that "[p]urchasing large tracts of land for large development projects is exceedingly difficult in India today: the vast majority of available land is in the hands of a large number of small peasant farmers, who often do not want to relinquish it" (p. 462).

Economists assume this is due to strategic holdouts acting as rational self-interested money seekers, who exploit a 'monopoly' power. But people may be "unwilling to sell for many reasons [... in the case of smallholders, for example, a] bleak assessment of their non-farm employment options" (Levien, 2011, p. 462) is likely to have an influence. Furthermore, many people value their territories, farms, family businesses or homes for non-monetary reasons; they do not treat their land or the buildings upon it as any old 'commodity' to be sold to the highest bidder. Finally, for some projects to be profitable and hence implemented, a group of people must be made worse off; so-called 'inefficient transactions' are often necessary for so-called 'efficient land use', which based on productivist ideology is that which generates the most exchange value.

Levien<sup>32</sup> concludes that extra-economic coercion is required to mobilise land for capital accumulation where “land markets are not fully capitalist; while most of the land in rural India is held as private property, it is not treated by farmers as a ‘pure financial asset’ [...] consequently capitalists look to the state to forcibly make land available for commodification through *eminent domain*” (p. 462-463, emphasis in original). While I broadly agree that “smallholding peasants” may represent a particular “barrier to accumulation” (*ibid*, p. 457), or that certain locations may have relatively more landholders unwilling to sell; I don’t know of a place where all land is held as a ‘pure financial asset’ - based on this criterion, arguably NO land market is fully capitalist. The stories relating resistance to eminent domain (ab)use in the USA, for example, show that a wide variety of people, from Native Americans to Republican ranchers, treat their land/homes as more than a ‘financial asset’<sup>33</sup>. I argue instead that ‘barriers to accumulation’ are inherent to capitalist land markets themselves.

It is not just supposedly ‘irrational’ indigenous people or Afro-Colombians who explicitly reject productivist ideology that stand in the way of so-called ‘efficient land use’. The capitalist land regime is laden with internal contradictions. Landowners are not legally bound to maximise exchange value. This would be inimical to market principles and the definition of private property itself. The right to choose how to use one’s property and to approve/deny transfers of ownership are typically deemed essential and defining characteristics of private property, but this means landowners are legally free to use their land ‘inefficiently’ and to reject sales that would boost exchange value.

One of the central contradictions of the capitalist land regime is that the most profitable choice from the perspective of the landowner is not always the most productive choice in terms of exchange value generation. In section 1.6, I gave an example from a World Bank publication in which the smallholders would choose the option with the lowest yields. Another example is provided in Marx’s discussion of primitive accumulation. Many Scottish landowners replaced crops and sheep pastures with game reserves because of the high rent payments on offer. An 1866 article published in the *Economist* bemoaned that the game reserves of Ben Audler “would pasture 15,000 sheep” and instead lay “totally unproductive”

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<sup>32</sup> Levien (2011) introduces a fourth issue not considered in the main text above. In areas where property rights are not clearly defined (e.g.) because registers are out-of-date or imprecise, land purchases may be put on hold by costly and time-consuming litigation. In India, eminent domain powers provide a quick and cheap way around this problem (pp. 462-463).

<sup>33</sup> See, for example, the series “[Driving the US pipeline route](#)” on the Guardian website.

(cited in Marx, 1867, I-27, p. 895). The point here is that ‘market forces’ determined that the most ‘efficient’ use of the Scottish Highlands was for the leisure of the upper classes. As explained above, the Scottish lairds and ladies were able to use the land in this way precisely because of changes to social property relations, in which they claimed exclusive ownership over their clan’s land and the right to lease this land to the highest bidder. So, these ‘deer parks’ were just as much the outcome of the relatively new capitalist land regime as the exceptionally productive tenant farming that gave way to the agricultural revolution.

In the above example, the most profitable choice for the landowner does not lead to the most ‘efficient’ outcome. In other cases, property rights may encumber economic growth because the landowner does not necessarily act as a profit-maximising agent. The majority of agricultural land in Colombia is not used for cultivation, but rather for extensive cattle grazing (see Chapter 7). The reasons for this are complex and must be located in historical processes. Two points deserve consideration here. First, multiple observers deem the use of vast areas for extensive cattle grazing as ‘inefficient’ because some of this land is suitable for cultivation (UPRA, 2014; Sandoval Duarte, 2014; Vergara, 2010). Second, cattle ranching is often not the most profitable land use<sup>34</sup>. Some proprietors use their land for cattle grazing rather than crop production due to impediments. However, many cattle farms are located near markets and roads, have fertile soils, and belong to wealthy absentee landowners who could access credit if they wished. Why don’t they shift to a more profitable/productive land use? Cattle grazing is, according to my informants, the ‘easy’ option: it is low risk and low cost (Personal Interviews, 2018). This makes it the ideal complementary activity in cases where absentee landowners value their properties first and foremost as a means of storing and accumulating wealth (on a similar issue in Guatemala see Grandia, 2013, pp. 247-248).

The World Bank’s 2003 land policy report treats speculative land acquisition and hoarding as a market ‘imperfection’ or ‘distortion’, especially prevalent “in situations where financial markets do not work well or where confidence in money as a repository of value is low” (Deininger, 2003, p. 94); but arguably it is a systemic problem (not an aberration) and one that has become particularly pervasive across the world in the context of

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<sup>34</sup> A group of agronomists estimated that keeping roughly 4-5 cows per hectare in Caldas –which is much higher than the national average ‘stocking density’ of just 0.6 head/ha (Vergara, 2010, p. 46)– could bring up to \$200,000 pesos in profits per hectare per month. In contrast, mid-range estimates of profits from (e.g.) plantain (\$500,000 per ha per month), orange (\$500,000 to \$700,000 per ha per month) and avocado (\$1 million COP per ha per month) cultivations are much higher (Personal Interviews, 2018).

financialisation. It is our property system that enables such practices. Governments generally have three tools for tackling the issue: taxation, expropriation and confiscation via forfeiture law. However, elite groups are arguably most likely to treat land/property like a 'financial asset' and least likely to be expropriated, have their assets confiscated, or to be affected by tax hikes. This means that land pressures tend to be transferred to smallholders and lower income homeowners.

Hence, I would argue that land dispossession and associated displacement are integral to capitalist development. Capitalism compels accumulation and growth, which in turn demand that land use be made to serve these imperatives. On the one hand, this requires that land be treated as a commodity to be sold and purchased on the market. And the imposition of modern property rules and land markets often comprises processes of dispossession and displacement. On the other hand, once established, capitalist land markets don't always provide enough land and resources, in the right places, at the right price – relative, that is, to the demands of capital accumulation and growth. For that reason, even once private property and free markets in land are established, extra-economic force (dispossession and forced displacement) continue to be integral to capitalist development.

My argument could also be expressed as follows: perpetuating growth based on capital accumulation (capitalist development) relies on both the imposition *and* the violation of private property rights in land, both of which are commonly characterised by dispossession. The role of property rights violations in mobilising land for capital accumulation is frequently overlooked, even by critical scholars, since dispossession is commonly associated with enclosures or the imposition of property rights (see above) and it is often assumed that extra-economic force is used only to *enforce* private property (see e.g. Wood, 1995).

Some governments have understood that private property in land can act as both a driver of, and obstacle to, growth and profits and have therefore opted to impose the system partially – excluding some areas from privatisation. State-owned lands allow governments and companies to initiate large-scale projects, which in other contexts would have required the violation of established property rights, which usually implies higher compensation costs and lengthier legal processes. These types of land-grabs (involving neither the expansion of private property rights nor their violation) also tend to entail dispossession and displacement.



The preceding pages require an explicit qualification. As highlighted above, the character and prevalence of land dispossession is contingent upon multiple factors. Ultimately, dispossession is not inevitable and it is not helpful to treat it as a mere ‘function’ of capitalism (Levien, 2011, 2013). This chapter has shown that understanding land dispossession requires context-specific political economy analysis; however, it has also shown the importance of considering the wider capitalist system in which it takes place.

Finally, to conclude, I unravel an apparent tension in my analysis. The attentive reader may have noticed my favoured use of Ellen Wood’s work in general and her concept of market-dependence (referred to in Chapter 1) in particular. According to Wood (2002), capitalism “is a system in which the bulk of society’s work is done by propertyless labourers who are obliged to sell their labour-power in exchange for a wage in order to gain access to the means of life” (p. 3). As explained earlier, the dependence of the direct producers on the market is paralleled by that of the capitalist. It is this market-dependence (of both capitalist firms/investors and direct producers) that differentiates capitalism from other modes of production or “social forms”, according to Wood. This dependence turns “competition and profit-maximization” into “the fundamental rules of life” and “the production and self-expansion of capital” into the “basic objective” of our societies (*ibid*, pp. 2-3). On the surface, my argument that coercive land dispossession and associated displacement are integral to both the development of capitalism and subsequent capitalist development may appear to contradict Wood’s thesis. However, I believe the apparent contradiction is illusory.

Capitalism is defined in part by market dependence and associated competition, as highlighted by Wood. However, capitalists clearly have an interest in reducing their market dependence and circumventing competition wherever possible, as well as in co-opting the State to help them do that. Moreover, States sometimes use their legislative and military/police powers to perpetuate growth and capital accumulation, especially in instances where the capitalist market itself poses obstacles to these objectives. Nevertheless, this does not negate the market-dependence thesis. Indeed, Wood herself discusses the role of State coercion in sustaining capital accumulation. In her article on the separation of the ‘economic’ and the ‘political’ under capitalism, she explains: “[t]he political sphere in capitalism has a special character to the extent that the coercive power supporting capitalist exploitation is not wielded directly by the appropriator and is not based on the producer’s political or juridical subordination to an appropriating master” (1995, p. 30). None of this is inconsistent with what I have argued above. Finally, Wood is concerned with “the appropriation of surplus labour”, which under capitalism “takes place in the ‘economic’

sphere by ‘economic’ means”, and ultimately rests upon “the appropriator’s absolute private property in the means of production” (Wood, 1995, pp. 28–29). The point is that “[d]irect extra-economic pressure or overt coercion are, in principle, unnecessary to compel the expropriated labourer to give up surplus labour [...] economic need supplies the immediate compulsion” (*ibid*, p. 29). In contrast, my arguments pertain to the control of land itself and related resources, which as argued in Chapter 1, has received insufficient attention from critical political economists – including Wood. So, Wood uncovers what is specific about capitalism via a historical comparison with other modes of production (especially in terms of how surplus labour is appropriated from the direct producer), while my arguments illuminate some activities or processes that occur within that system or -more precisely- the way capitalist land markets (mal-)function within particular contexts.

### **Summary and conclusion**

This chapter offered an overview and critical evaluation of some key claims on land dispossession found in varied literature, which addresses the issue either directly or indirectly. The first part focused on the conventional view of dispossession as defined by orthodox economic and liberal political and legal paradigms, which I show to be inadequate in general and for explaining land dispossession in Colombia in particular. The second part examined the ideas put forward by critical scholars from diverse backgrounds. As should be clear from the discussion above, I believe critical political economy analysis highlights and provides a solution to the deficiencies of those approaches that abstract from (or minimise the importance of) history, power relations, social struggles, ideology and the wider political and economic context, which includes capitalism as a historically specific global system and the changing and contingent forms it takes across space and time. This chapter has served a quadruple purpose: (1) to locate my research within a broader literature; (2) to show how my investigation on historical and contemporary dispossession in Colombia undercuts or bolsters some of the key claims within this literature; (3) to construct a conceptual framework from and for the rest of this thesis; and (4) to put forward some of my own arguments – including original theoretical propositions and specific assessments of the political economy of dispossession in Colombia.

## **Dispossession and displacement in Colombia during the colonial era**

This chapter provides an overview of dispossession and displacement in Colombia during colonial rule. As emphasised previously, the historical narrative presented in this thesis is unusual in that it focuses on the political economy of land, specifically dispossession and associated displacement. One of the main aims is to show how and why practices and policies of dispossession and displacement change over time. This historical perspective also reveals the deep roots of Colombia's current land problems. Additionally, it establishes a basis for identifying what is distinctive about contemporary land grabs; examples of what might be called pre- or non- capitalist forms of dispossession and displacement serve as a point of contrast for later chapters.

The first section contains a brief outline of early colonial land grabs -underpinned by a *notion of property based on divine rights*- in what is now Colombia. It shows that the resulting extermination and exodus of the territories' original inhabitants were contrary to the interests of the colonial economy, which depended on the exploitation of indigenous labour. The Crown actually forbade the usurpation of indigenous lands (though only those *occupied*) and the *encomienda* system was supposed to ensure native communities' access to arable terrain necessary for the extraction of tributes in kind.

The second section briefly examines land policies established in the late 16<sup>th</sup> century. It reveals that the Crown's prioritisation of fiscal objectives undermined the other alleged aims of the Royal Order: to tackle illegal usurpation (i.e. not authorised by the colonial government) and unproductive land hoarding. This 'reform' essentially sanctioned illicit land appropriation; a practice repeated throughout Colombian history up to present day.

Section three discusses involuntary resettlement policy and the associated titling program (initiated in the 1590s), reiterating the argument that the colonial economy depended upon the *controlled* displacement of the dispossessed. Some historians claim that the colonial government granted indigenous groups titles over areas of land -known as *resguardos*- in order to protect them from dispossession and displacement. There is an element of truth in this claim to the extent that disorderly land usurpation and the concomitant uprooting of indigenous communities posed a threat to the stability of the colonial system. However, 17<sup>th</sup> century *resguardo* policy is better understood as an attempt

to order and control processes of dispossession and displacement. Collective titling was part of a reformed resettlement program, which favoured colonisers' land and labour demands and facilitated missionaries' conversion work. Nevertheless, indigenous groups learnt to use colonial institutions to their advantage; they demanded more autonomy for their *cabildos* (formally recognised local authorities), used the law to defend against private land grabs, and sought the creation of new *resguardos* or the expansion of existing ones.

The fourth section analyses the dissolution of the *resguardos* during the second half of the 18<sup>th</sup> century. It provides further evidence that collective titling was not a policy of benevolent protection; the colonial government began to revoke and reduce these titles as the communities' ability to supply tributes declined. Thus, indigenous peoples were dispossessed and displaced once again, according to the demands of the colonial economy. The *specific* motivations behind the destruction of the *resguardos* is a point of contention; however, observers agree that the result was to increase land concentration and strengthen the hacienda system based on tenant farming and sharecropping.

The fifth and final section provides a concise discussion of the hacienda system (in which elites extracted land rents from peasants paid in labour and in kind and to a lesser extent in money) that came to define life in New Granada (as Colombia was then called) in the 18<sup>th</sup> century and the contradictions of late colonial land policy. Many colonial officials commented on the social and economic ills caused by land concentration. However, the Crown did little to resolve the issue. In fact, the dissolution of the *resguardos* exacerbated the problem as the extricated land was sold at auction to those with the ability to pay. Regardless of the Crown's intentions, this resulted in further consolidation of the *hacendados'* power.

### **1) Early colonial land grabs, uncontrolled displacement and labour shortages**

In the early 1500s the conquistadors established a number of bases (most notably Santa Marta and Cartagena) on the Caribbean coast of what is now Colombia. From there they launched numerous expeditions, gradually extending their colonisation to the interior. After looting the indigenous populations' gold, the Spanish began mining for the precious metal throughout the Kingdom of New Granada. Gold was the colony's only export until the late 1700s. Still, the colonisers depended on domestic agricultural production and hence were interested in controlling arable flatlands as well as mineral-rich areas (Bohórquez, 2002; Jaramillo Uribe, 1996; Williams, 1999).

For the Catholic conquistadors and their patrons, God was the creator and thus true owner of all the earth, and only the Pope -deemed God's most important representative- had the authority to bestow rights over His land. Hence, with the Pope's blessing, the 'New World' became 'property' of the Spanish Crown. The Crown, in turn, licensed its conquistadors (via *capitulaciones* - essentially contracts containing rights and obligations) to explore, colonise and control the 'new' territories. Among other things, these *capitulaciones* granted the beneficiary rights over land and the authority to distribute plots amongst other Spanish settlers who accompanied them. The Crown also conceded lands directly through Royal Orders. These land grants -known as *mercedes* (derived from the word 'mercy') or *repartimientos* (derived from the word 'distribute') - were designed to recompense the Crown's soldiers and explorers and to stimulate settlement. Land grants were usually conditional<sup>35</sup> and some historians argue they conferred rights of possession rather than property (Machado, 2009, pp. 21–26; Mayorga, 2002). Notably, unlike English colonial policy in Ireland and the USA, the Spanish Crown's justification of the dispossession of the native population was not rooted in capitalist or Lockean conceptions of property but was based solely on the notion of divine rights.

By Royal Order, land grants were to exclude the 'property' of the 'indians'. However, this exclusion applied to territories 'effectively occupied' by the natives 'at the time of the repartition' and hence overlooked the land requirements of the nomadic and semi-nomadic groups that had inhabited the Colombian territories for millennia. In any case, these were dead letter laws and usurpation advanced irrespective of indigenous people's ability to prove 'occupation' of their ancestral home (Bohórquez, 2002, pp. 11–13; Mayorga, 2002).

The conquistadors and settlers occupied fertile flatlands, destroying native farming communities in the process. For example, the Tairona people (from whom the Aruhuacos are descended) historically cultivated the plains of the Caribbean coast but were pushed up into the Sierra Nevada mountains – to areas that were relatively inaccessible to their aggressors (Minahan, 2013, pp. 36–37). Similar dispossession occurred across the country: "by the end of the 16th century, the indians of the savannah of Bogotá had lost 95% of the lands they occupied before the arrival of the Spanish" (Bohórquez, 2002, p. 12). Many groups fought against the land grabs and colonial abuses in general but the invaders -armed

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<sup>35</sup> The Crown's land grants usually came with obligations to live in the area for a certain number of years, plant crops, erect buildings, and raise livestock – only those who met these conditions could access a title, later enabling them to sell or rent their land (Machado, 2009; Mayorga, 2002).

with steel swords and foreign disease- defeated waves of regional resistance one by one<sup>36</sup>. Countless communities fled to the mountainous slopes and distant forested zones in order to escape Spanish rule (Quiroga Zuluaga, 2015; Minahan, 2013; Williams, 1999).

The settlers and the Crown had obvious interests in establishing control over lands containing gold deposits, areas suitable for agriculture and settlements, and strategic locations for war and transport. But “the dispersion of the indigenous to inaccessible places [...] presented a constant obstacle to the[ir] ‘civilising’ and evangelising objectives” (Quiroga Zuluaga, 2015, p. 32). More importantly, vast ‘unconquered’ territories were swallowing up the workforce on which the Crown’s economy depended. This exodus -combined with genocide, war and disease - contributed to severe labour shortages (Jaramillo Uribe, 1996; Machado, 2009, p. 39). Flight to remote lands was a recurring issue throughout the colonial era: many people shipped from Africa to solve ‘the labour problem’ became fugitive slaves or *cimarrones*, who established autonomous subsistence communities called *palenques*, far from their oppressors (Mosquera Mosquera, 2001).

Initially, the Spanish attempted to secure a labour force by enslaving indigenous peoples. However, the direct enslavement of the native population was quickly outlawed<sup>37</sup>, and some estates and mines began to ‘import’ people from Africa for slave labour, as noted above. The dwindling indigenous population was -nevertheless- still very important to the colonial economy and was subject to a different type of exploitation under the *encomienda* system. The *encomenderos* in charge of this system were essentially granted rights over indigenous labour - supposedly in exchange for protection and religious instruction. Indigenous people were forced to pay tributes in kind and in services, including draft labour -referred to as *concierto* or *la mita*<sup>38</sup>- for agricultural estates, mines, cloth factories and the construction of infrastructure (González Garzón, 2013, pp. 26–27; Ángel, 2012a; Zamosc, 1986, pp. 8–9).

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<sup>36</sup> See, for example: the indigenous resistance led by the chief Gaitana, which united various ethnicities, in the Cauca/Huila region during the mid-1500s (González Garzón, 2013, p. 25); or the rebellion of indigenous groups in Chocó (Williams, 1999).

<sup>37</sup> Legislation from 1512 “defined the indian as a ‘free vassal of the King’, with which his condition as a slave was denied” (Machado, 2009, p. 43).

<sup>38</sup> The word *mita* is taken from the Quechan *mit’a*. The latter was an obligatory public service during the Incan Empire. The Spanish adapted both the word and the institution to suit their needs. Depending on place and time, there may be differences between the colonial *mita* and the *encomienda* system; but “generally, in the New World the terms *repartimiento*, *mita*, *cuatequil*, and *encomienda* became interchangeable” (Rodríguez, 1997, pp. 436–437, 544).

The *encomienda* system, it is worth stressing, was not based on the complete dispossession of indigenous communities. In fact, the “laws regulating the *encomienda* regime specified that the rights of the *encomendero* were limited to the acquisition of indigenous tributes, and that he could not -on any account- dispose of their lands” (Mayorga, 2002; see also Machado, 2009, p. 38). Nevertheless, the *encomenderos* found ways around such rules and began asserting property rights over large areas (Quiroga Zuluaga, 2015; Machado, 2009; Bohórquez, 2002). This generated conflicts between settlers and between them and indigenous peoples. It also contributed to ongoing processes of extermination and exodus, causing further problems for the colonial economy. The Crown devised a number of policies to address these issues. The granting of collective titles to indigenous groups helped stabilise the situation to a degree, but fiscal concerns enfeebled other aspects of the reform and the consolidation of large idle estates continued unabated, as shown below.

## **2) Late 16<sup>th</sup> century land policy and the legalisation of illicit appropriation**

In 1591 the King issued a Royal Order, which Machado (2009) and other historians liken to a land reform: “it constituted the first process of property redistribution after the conquest” (p. 29). According to Liévano (2002), the Crown knew that the majority of titleholders had not complied with the original conditions attached to their land grants and was also aware that “deficiencies in the demarcation system” had allowed “a *merced* of 500 hectares” to become an “unproductive *latifundio* of 20,000 hectares” (cited in Machado, 2009, p. 31). The Order was supposed to promote productive use of land and organisation of ownership, while generating income for the Crown in order to resolve a fiscal deficit. As shown below, the Crown sacrificed the former in order to secure the latter.

The 1591 document reiterated earlier instructions to allocate and title indigenous lands and ended donations to Spanish settlers in the form of *mercedes* - they would have to purchase land in public auctions instead. It also ordered (among other things) all those in possession of land to present their titles so that illegal occupants could be removed or forced to pay a fee (*composición*) in exchange for a title. (Lands confiscated for incompliance could be sold at auction alongside other ‘royal lands’.) Essentially, *composición* was a form of legalising land occupations not backed by a title or beyond the limits of existing titles or based on *mercedes* granted by officials that were not technically authorised (Machado, 2009; Mayorga, 2002; Quiroga Zuluaga, 2015). According to Mayorga (2002), “*composición*

became the preferred form of acquiring land” during the colonial era; at least, “for those who had the means and information to go through with the process” (Machado, 2009, p. 30).

Arguably, the 1591 order amounted to a formalisation program (not a comprehensive, and much less a redistributive, reform) that actually legalised property concentration. Evidence suggests that the Crown’s interest in resolving its fiscal problems outweighed its concerns for redistributing land and promoting production. Machado (2009) claims the Order demanded lands be put to productive use (pp. 28-30), but he does not specify whether the Crown actually confiscated idle properties. It seems confiscation applied to those who did not have a legal title and could not afford to pay the *composición*. In other words, the wealthy could legalise their land appropriations *ex post facto*, while poor Spanish settlers faced losing their farms. Concentration of land ownership was probably further entrenched by the auctioning of land to the highest bidder.

All of this calls into question the idea that the Order was aimed at resolving the problem of unproductive *latifundios* (see quotation above) or that it was designed to “avoid and punish usurpations [...] by greedy *encomenderos*” (Salazar cited in Machado, 2009, p. 29). On the contrary, it legalised these usurpations. Machado’s text (2009) includes countless details that reveal inconsistencies between the alleged aims of the reform and the means and outcomes. He provides just one example of ‘redistributive’ action, resulting from the 1591 Order: the granting of *resguardo* titles to indigenous communities (Machado, 2009, pp. 28–32). However, *resguardo* policy is better understood as a resettlement strategy, aimed at subordinating indigenous peoples to the colonial organisation of land and labour, as argued in the following section.

### **3) Forced relocation or controlled displacement: *reducciones* and *resguardos***

The *encomienda* system -and the colonial economy in general- required the controlled displacement of the native population. Local officials and designated missionaries were in charge of implementing *congregaciones* or *reducciones* - essentially a policy of forced relocation, which favoured the coloniser’s land and labour demands and the objectives of Catholic conversion. Caroline Williams’ (1999) account of Spanish colonisation and indigenous rebellion in Chocó (northwest Colombia) during the 1670s and 1680s clearly depicts this, in addition to the regional particularities of colonial resettlement policy:



Spanish miners did not intend to employ indians in mining activities; for this, slaves would be imported. But the local indians were to be assigned a central role in the emerging mining economy. They were to provide foodstuffs for the mining camps, [...] serve as guides and carriers, and build dwellings for both miners and slaves. To enable Indians to fulfil these roles, the small scattered communities would have to be brought together in larger settlements close to the mining camps (p. 406).

The *reducciones* in Chocó were chaotic. The original inhabitants of the region were accustomed to moving after each harvest (a practice that allowed for soil recuperation) and repeatedly deserted the designated settlements. They rejected the missionaries' authority. The Spanish were unable to identify clear and stable hierarchical power structures within their communities and hence had difficulty co-opting their leaders. Some groups refused to trade in order to "starve the settlers out"; for a time, they were successful, as the lack of food forced many miners and missionaries to abandon their projects. In the end, the missionaries and local colonial officials resorted to direct force (apparently, disobeying the 'peaceable' intentions of their superiors), leading to clashes with the indigenous communities and with numerous Spanish settlers who sided with them. A handful of people were removed from their posts, leading to a brief period of calm. Ultimately, however, the region erupted into conflict: violent rebellion was followed by brutal repression (Williams, 1999, pp. 404–424). By 1690 the rebels had been defeated and "flight [w]as the only remaining way to resist the Spaniards [... the native population was] unable to stem the Spanish advance into their territory and its subsequent conversion into a major mining region of late colonial New Granada" (*ibid*, p. 424).

As stressed by Quiroga (2015), the *reducciones* were highly contingent on regional factors. In some areas, such as the Province of Neiva, Catholic missionaries initiated the resettlements and the *encomiendas* were formed after the fact (p. 31). In the Paéz Province, in contrast, the *encomenderos* obligated the indigenous population to move multiple times according to their own interests: "the *encomenderos* did not have the legal authority to assign lands to the indigenous, nor to promote population transfers. Nevertheless [...] the displacements were endorsed by the local colonial administration" (*ibid*, p. 28). The Spanish government intervened in 1639, essentially formalising the allocation carried out by the *encomenderos* through the granting of *resguardo* titles (Quiroga Zuluaga, 2015, pp. 29–30).

The *resguardos* were areas of land with collective titles, granted by the Spanish government to the indigenous communities. Some commentators suggest that the 1591 Royal Order -which instigated the creation of the first *resguardos*<sup>39</sup>- was an attempt to hinder further usurpation of native lands and resulting social disintegration. Other observers present the *resguardos* as a means of ‘stabilising’ the indigenous population and ‘protecting’ them from continuous abuses and dislocation at the hands of unscrupulous settlers and *encomenderos* (for a full critique of the ‘benevolent protection’ explanation of resguardo policy, see Bohórquez, 2002; see also Quiroga Zuluaga, 2015). These claims contain a grain of truth, in so far as private land grabs were destabilising the colonial regime. However, it would be disingenuous to suggest that the objective was to protect indigenous peoples; *resguardo* policy can be better understood as the State’s attempt to control processes of dispossession and displacement.

In practice, “the lands assigned to the aboriginals almost never corresponded to their ancestral possessions”; instead the *resguardos* were established in accordance with the interests of the colonial government and/or the regional elite. In some regions, the royal visitors simultaneously approved the allocation of native lands and multiple *composiciones* over lands the Spanish had occupied de facto (Quiroga Zuluaga, 2015, p. 30). Hence, the constitution of the *resguardos* often went hand in hand with the legalisation of usurpation.

Furthermore, *resguardo* titles were never secure, as ultimate “property [rights] always remained in the hands of the Crown, which could later impose a new relocation and offer those lands to the white population” (Bohórquez, 2002, pp. 14–15). Officials frequently ‘transferred’ people from one *resguardo* to another or regrouped communities (referred to as *agregaciones*), at the convenience of the missionaries<sup>40</sup> and according to the requirements of the colonial economy<sup>41</sup> (Quiroga Zuluaga, 2015, pp. 33–43; Bonnett Vélez, 2001, p. 11). Bohórquez (2002) highlights the “violent rupture” brought about by these

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<sup>39</sup> The word *resguardo* first appears in legislation from 1561, the order to assign lands to the indigenous population was reasserted in 1591 and the first *resguardos* were created in the 1590s (Machado, 2009, pp. 44–45; Bonnett Vélez, 2001, pp. 10–11).

<sup>40</sup> Indigenous families were often relocated according to the availability of missionaries (Quiroga Zuluaga, 2015); the *resguardos* were said to facilitate the Church’s work by concentrating the - formerly dispersed- native population in designated areas (Bohórquez, 2002).

<sup>41</sup> Transfers were used to ‘correct’ the proportion of persons to land (the colonial government reasoned that each tributary should have no more than 1.5 hectares) and to ensure that each *resguardo* was able to provide its established quota of tributes (Bonnett Vélez, 2001, p. 10). As explained by Bohórquez (2002): “a fall in tributes almost always led to new *reducciones* or *agregaciones*” (p. 8).

transfers in which groups with different customs and languages were forced to live in confined spaces, unfamiliar climates, and on lands that were inadequate for their traditional cultivation practices.

Hence, collective land titles neither recognised ancestral territorial claims, nor ‘protected’ native communities from ‘continuous dislocation’. The *resguardos* were part of a controlled displacement strategy; they “served to uproot and dispossess the indigenous” population (Bohórquez, 2002, p. 15). The aim was to concentrate, segregate, and prevent the annihilation of the indigenous population, in order to ensure the latter’s contributions to colony and Crown (Bonnett Vélez, 2001; Machado, 2009).

In effect, the establishment of the *resguardos* can be seen as an adaptation of earlier resettlement policy. According to Bohórquez (2002), the Spanish government introduced the *resguardos* as a ‘solution’ to the disorder generated under the original *encomienda* regime, which was marked by constant conflicts over land and labour (pp. 4-5). The new institutional arrangement (including, but not limited to, the *resguardos*) took power away from the *encomenderos* and reaffirmed the State’s authority. The *encomenderos* still received indigenous tributes, but no longer controlled them; the reforms “prohibited direct relations between the *encomendero* and the *encomendados* [i.e. indigenous persons]” (González cited in: Machado, 2009, p. 44). Hence, “despite benefitting from the freeing of land [resulting from the forced displacement and concentration of the indigenous population], the *encomenderos*, who were used to commanding at their whim the indian labour force under their ‘care’, always opposed the establishment of the *resguardos*” (Bohórquez, 2002, p. 7).

To an extent, the *resguardos* were self-governed through *cabildos* - indigenous authorities recognised by the colonial administration. But the colonial government assigned a special functionary, known as the *corregidor de indios*, to each *resguardo*. The *corregidor*, in conjunction with the local cacique or chief (head of the *cabildo*), was in charge of overseeing production within the *resguardo*, controlling commerce with outsiders, coordinating labour tributes, and collecting and distributing tributes in kind, which were shared among the King, the Church, the *encomendero* and the colonial authorities – including the *corregidor* himself. The *corregidor* and a designated priest were the only people authorised to interfere in the *resguardos*; all other personal or commercial relations with outsiders were strictly forbidden (Bohórquez, 2002, p. 3).

Most early *resguardos* were constituted on arable land near colonial towns and settlements; this facilitated the exploitation of indigenous labour, the Catholic indoctrination of the native population, and the appropriation of the latter's agricultural production in the form of tributes<sup>42</sup> (Bonnett Vélez, 2001, p. 10). However, as the economic importance of the indigenous population declined, the *resguardos* were relegated to poor quality lands far away from the urban centres (Machado, 2009, p. 19) – as discussed below.

Initially, *resguardo* policy was no more successful than other forms of forced resettlement: many indigenous communities refused to remain on the lands that had been assigned to them (Bohórquez, 2002, pp. 8–9; Bonnett Vélez, 2001, pp. 10–11). However, in some regions, the granting of land rights aided indigenous acceptance of the *reducciones*. The Spanish government recognised their success in this regard. One official argued that *resguardo* lands should be extended in order to entice groups hiding in the mountains to come down and adopt the Catholic faith (cited in Quiroga Zuluaga, 2015, p. 37).

At the same time, many indigenous leaders learnt to use the *resguardo* and associated colonial institutions -such as the *cabildo*- to their advantage. Nasa chief, Juan Tama, for example, demanded more indigenous autonomy and obtained titles for important areas of Nasa territory in the 1600s<sup>43</sup>. Quiroga documents how indigenous authorities in the Paéz and Neiva provinces presented themselves as 'vassals of the King' in order to negotiate directly with the Royal Audience. They used the colonial legal system to solicit the establishment or enlargement of *resguardo* titles and to denounce usurpations by settlers. In this way, some groups were able to regain territory lost through repeated forced displacements (Quiroga Zuluaga, 2015, pp. 35–41). As part of the same process, Quiroga (2015) argues, indigenous leaders came to play an "active role" in the *reducciones* they initially resisted (p. 47).

Legal land battles had a number of shortcomings from the indigenous perspective. Some Spanish settlers refused to acknowledge indigenous landownership and regularly encroached on *resguardo* lands. They took advantage of poor legal and physical

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<sup>42</sup> Bohórquez (2002) argues that one of the main functions of the *resguardos* was to "ensure a permanent and sufficient supply of food required by the villas and Spanish towns". Tributes in kind included foreign crops such as wheat and oats, which were central to the European diet (p. 5).

<sup>43</sup> Juan Tama de la Estrella ("of the Star") is both historical and mythical figure. The elders are said to have summoned a child -a star sent by the spirits- who would become a great leader. The baby was rescued from the Pátalo lake-fed stream and raised by the community. Having fulfilled his role in strengthening the organisation and identity of the Nasa people, Juan Tama is said to have returned to the lake from which he was born, a sacred place which still bears his name (Yonda Canencio, 2015).

demarcation. In addition to de facto usurpation, the Spanish government regularly used its legislative powers to 'dissolve' or 'reduce' the *resguardos*, particularly in areas where the diminished population was unable to prop up the colonial economy. This type of State-led dispossession increased over time, culminating in a process known as the "decomposition of the *resguardos*" (Machado, 2009, pp. 45–46; Bohórquez, 2002, p. 15; Mayorga, 2002).

#### **4) The dissolution of the *resguardos* and the pursuit of agricultural development**

By the mid 1700s "the *resguardos* could no longer provide significant agricultural surpluses and had ceased to be a dependable source of draft labour" (Zamosc, 1986, p. 9). Increasingly commercialised haciendas began to replace the *resguardos* as the main source of food production (Zambrano Pantoja, 1982, pp. 139–140). Many haciendas relied on sharecroppers and other types of tenants (as opposed to indigenous tributes or African slave labour), mostly drawn from the poor white and growing mestizo population – who were not officially tied to the colonial labour system (Bejarano, 1983).

Regional elites, plus landless communities and unofficial tenants living in and around the *resguardos* – known as *vecinos*<sup>44</sup>, pressured for reform, arguing that indigenous communities "underutilised" their lands (Bonnett Vélez, 2001, p. 14). This argument chimed with the interests of the colonial regime, which had become increasingly concerned with promoting agricultural development (Mayorga, 2002). According to Zambrano (1982), the "central objective" of the Bourbon reforms, implemented in the second half of the 18<sup>th</sup> century, was to "convert the colonies into producers of primary goods and a market for metropolitan manufactures" (p. 164). While non-indigenous labouring classes were interested in gaining rights over *resguardo* lands for themselves, the creole elites believed existing land access favouring the direct producers was part of the problem – they blamed limited production on labour shortages and argued that the *resguardos* were retaining part of the workforce (*ibid*).

The government was also facing significant fiscal pressures and saw an opportunity to capture the rents charged to the *vecinos* living and working within the *resguardos*, and/or to use this violation of the law<sup>45</sup> as a rationale for selling *resguardo* lands at auction.

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<sup>44</sup> "The term vecino [...] refers to the mestizo, free black or poor white population, lodged near or within the *resguardo* territories" (Bonnett Vélez, 2001, p. 11).

<sup>45</sup> All authors concur that -originally- it was illegal for indigenous authorities to rent or sell *resguardo* land. While some suggest that the violation of this law was used to justify the dissolution of the *resguardos* (Mayorga, 2002), implying that it was in place until at least the mid-18<sup>th</sup> century, Machado

Ironically, many indigenous communities had resorted to renting their lands to outsiders precisely in order to supplement the otherwise unmanageable tributes imposed on them by the government (Machado, 2009; Bohórquez, 2002; Mayorga, 2002; Bonnett Vélez, 2001).

Cohabitation within the *resguardos* led to both conflict and cooperation, either of which could be presented as a threat and used to justify their dissolution. In some areas, interracial mixing (*mestizaje*) had led to the near disappearance of an ethnically distinct indigenous community, which had been the basis of *resguardo* policy (Bonnett Vélez, 2001; Mayorga, 2002). Towards the end of the colonial period, the mestizo population was more than double the indigenous; according to a 1778 census, the total population was 750,000 - mestizos represented 48.0%; white inhabitants accounted for 25.6%; and indigenous and black peoples, 19.4% and 6.8% respectively (Jaramillo Uribe, 1996).

In general, the *resguardos* came to be seen as economically inefficient and socially obsolete. Hence, in the second half of the 18<sup>th</sup> century, colonial policy shifted towards the revocation and reduction of *resguardo* titles. Some groups stayed in their *resguardos* but after the reductions were confined to a much smaller area, others were relocated to marginal regions, and many became day labourers and tenants on the growing haciendas (Machado, 2009; Jaramillo Uribe, 1996). Several authors draw direct links between the rise of the haciendas and the decline of the *resguardos* (Machado, 2009, p. 42; see also Bohórquez, 2002; Zambrano Pantoja, 1982).

According to Machado (2009), some *campesinos* were able to access land extricated from the *resguardos*, “forming a layer of small property owners” (pp. 35-36). However, most *resguardo* territory ended up in the hands of a “small group of landowners”. On the whole, the demands of the landless poor went unanswered (*ibid*, p. 46). Zambrano (1982) suggests that the government never intended for the population living around the *resguardo* to become small proprietors. They anticipated, he claims, that they would be forced to work on the haciendas; and hoped that this influx of ‘freed’ labour would boost production (pp. 142-143). Nevertheless, it is very difficult to establish the intentions of the government, which simultaneously permitted further land concentration (from Zambrano’s perspective this was deliberate), while also condemning its negative consequences, as shown in the following section.

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(2009) claims that the colonial government actually authorised this practice in the 17<sup>th</sup> century because it allowed indigenous communities to meet their tributes (p. 46).

### 5) The colonial legacy: unproductive land concentration and the hacienda system

Government functionaries were aware of land concentration and the problems this generated: “it was clear for the observers of the Crown that at the end of the 18<sup>th</sup> century the best lands were controlled by a few proprietors, and that this impeded agricultural development” (Machado, 2009, p. 36). According to Zambrano (1982), “the royal authorities continually denounced that the large property-owners did not work the land and that they appropriated extensions much larger than they could exploit” (p. 142). Various reports also commented on the abuse of the landless poor, who were unable to pay the extortionate rents demanded of them (Machado, 2009, pp. 34–35). In 1776 one official lamented: “inhabitants of the kingdom live at the mercy of the landowners” (cited in Machado, 2009, p. 36). However, it seems the authorities disagreed on how land issues should be addressed.

The Viceroy Manuel Guirior requested a Royal Order to obligate owners to give up lands that were not productively used. The Crown, however, was not in favour of using coercive measures against landowners and argued for a softer policy that would *encourage* titleholders to rent or sell idle lands (Mayorga, 2002; Zambrano Pantoja, 1982). The San Lorenzo Order of 1754 and the San Ildefonso Order of 1780 were the last to be published before the Wars of Independence. The latter established that Royal land should be donated to those in need and who were willing to cultivate the soil, rather than sold to the highest bidder, even if this went against the immediate financial interests of the Crown. Both Orders asserted the eminent domain of the Spanish State and its right to confiscate lands that were not put to productive use (Machado, 2009, pp. 35–37). However, the 1780 Order also contained reassurances that legitimate titleholders would “not be obligated to sell or rent their lands against their will” (cited in Zambrano Pantoja, 1982, p. 142).

Whatever the intention of the reforms, at the end of the 18<sup>th</sup> century, large haciendas dominated the countryside in New Granada<sup>46</sup>. The hacienda had become “the most important social structure [...] with very few regional exceptions, the hacienda imprinted its seal on customs and social values and was the basis of political power and social prestige” (Jaramillo Uribe, 1996). The *hacendados* extracted land rents from the direct producers

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<sup>46</sup> As noted by Jaramillo (1996), “though the large haciendas predominated, there were regions with small and medium property”. For example: most property owners in the Medellín area had farms of less than 3 hectares. Jaramillo attributes this to the fact that the Antioquian economy was mainly based on mining and commerce, rather than agriculture.

“paid in money, in kind and in days of work” (Jaramillo Uribe, 1996; Zamosc, 1986; Zambrano Pantoja, 1982). Zambrano argues that sharecropping and tenant farming were preferred because of reduced risks and costs; he claims that both slave and wage labour required large-scale production to be profitable and that salaried day labourers were hired only for specific tasks (p. 145).

In any case, by the end of the 18<sup>th</sup> century, elites no longer depended on the obligatory indigenous tributes that had defined much of the colonial period. Though *la mita* was not formally abolished until after independence in 1820 (Machado, 2009, p. 42), the *encomienda* system began disintegrating long before. According to Jaramillo (1996) these institutions had practically vanished in most regions by the 1740s. Meanwhile, the Crown’s land policies (whether deliberately or not) contributed to a further concentration of property, which helped ensure subjugation to the haciendas.

Despite the socio-political importance of the hacienda, agriculture continued to be overshadowed by mining and commerce. New Granada never had extensive export-oriented plantations like those that existed in other colonies. The haciendas mostly produced for regional and local consumption. In a few exceptional cases they produced leather, cotton and cacao for international markets. Hence, the Spanish government’s attempts to promote diversification had limited success: though agricultural exports tripled towards the end of the 1700s, non-mining products still only represented around 10% of sales abroad (Jaramillo Uribe, 1996; Zambrano Pantoja, 1982).

Notwithstanding the mediocre results of the Crown’s agricultural development policies, Zambrano (1982) argues that the Bourbon reforms in New Granada had two main effects: to accelerate changes in labour exploitation (see above) and land appropriation (p. 153). The liberalisation of trade, in particular, created “expectations of linkages to the world market”, which provoked a shift in attitudes towards the land. It “acquired more importance as a factor of production and was converted into an object of commerce” (Zambrano Pantoja, 1982, pp. 140–141). In addition to prospects of land valorisation, the landowning elite expanded their property claims in order to retain and gain labourers for their estates (*ibid*, pp. 142-144). The “latifundios were constantly chasing the agrarian frontier” to prevent the establishment of an independent peasantry (Zambrano Pantoja, 1982, p. 144; see also p. 147). As discussed in the subsequent chapter, these two practices -speculative land acquisition and the use of property claims to acquire and retain a dependent workforce- continued to define dispossession/displacement throughout the 19<sup>th</sup> century.



The discontent of the dispossessed (in particular those displaced from the *resguardos*) contributed to the demise of Spanish rule, but Independence did not bring about the transformations the masses had hoped for (Fals Borda, 2009, p. 61; Zambrano Pantoja, 1982, p. 143). As argued by Zambrano (1982): “the creole oligarchy, which took over the direction of the independence movement, didn’t feel it was creating a revolution, but instead inheriting power, considered its own” (p. 164). And so, the inequities and inefficiencies of the colonial land regime carried over to 19<sup>th</sup> century Colombia.

### **Summary and conclusion**

This chapter examined three overlapping waves of dispossession and displacement in Colombia during the colonial era. First, land grabs by conquistadors and Spanish settlers resulted in the uncontrolled displacement of indigenous peoples, who were also disappearing due to disease, war and genocide. This posed problems for the colonial economy of the 16<sup>th</sup> century, which depended upon the exploitation of indigenous labour. Second, in response, the Crown attempted to order and control dispossession/displacement through involuntary resettlement and related *resguardo* policy. From the 1590s onwards, colonial authorities began to allocate lands (known as *resguardos*) to indigenous groups and forcibly relocate them to these areas. They frequently reorganised the *resguardos* according to the land and labour requirements of the colonial economy. Still, some indigenous leaders attempted to use colonial institutions to turn the *resguardos* into a cohesive and stable territory for their communities. Third, by the 18<sup>th</sup> century the tribute system was no longer central to the colonial economy and the government began to dissolve the *resguardos*, displacing and dispossessing indigenous communities yet again. Many mestizo and poor white families who lived in the *resguardos* were also dispossessed/displaced in the process.

Four broad observations can be drawn from the description and analysis presented in this chapter. (i) Labour control was central to practices and policies of displacement and dispossession during the colonial era. This stands in contrast to contemporary land grabs, which are primarily aimed at controlling the land itself and related resources, with little or no concern for the labour power of the dispossessed or the destination of the displaced. For example, recent processes of involuntary resettlement (imposed by the State) have mostly been aimed at removing people from lands demanded for some investment or another, rather than relocating them to places where their labour is required – as in the colonial era.

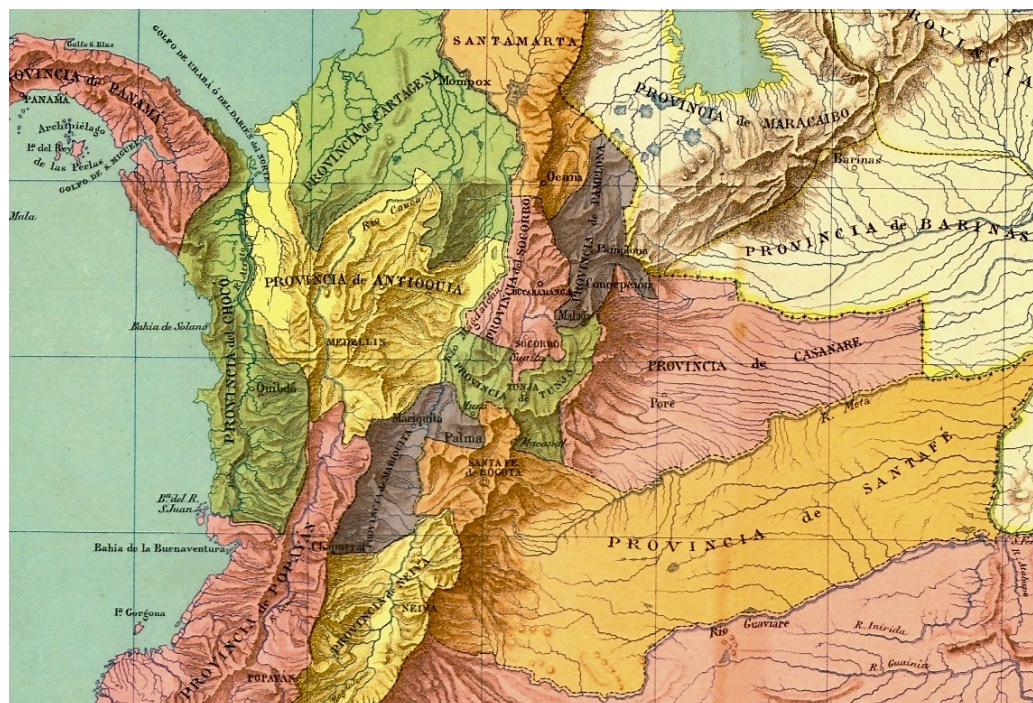
(ii) Private land grabs, law, policy and different economic/political interests interact in complex and contradictory ways and require extensive analysis. For example, the Crown ordered its conquistadors and settlers to respect the 'property of the indians' and forbade the *encomenderos* from 'disposing' of indigenous peoples' lands. Nevertheless, it simultaneously encouraged and facilitated these processes of dispossession, including -but not only- through the policy of *composición*, which allowed for the legalisation of unofficial land appropriations. Also, the problems generated by private land grabs motivated, at least partially, the implementation of the *resguardo* titling program, which was part of the State's attempt to control (not halt) processes of dispossession and displacement – a policy, it is worth reiterating, that many *encomenderos* opposed.

(iii) In Colombia, the tension between property rights and (in this case non-capitalist forms of) economic development was manifest even in the colonial era. Over centuries, the Crown passed numerous legislations, ostensibly to address illicit land grabs (i.e. those not condoned by the State) and the formation of unproductive *latifundia*. However, its short-term fiscal interests eclipsed concerns for ensuring that lands were used productively. This tension intensified in the latter half of the 18<sup>th</sup> century during the Bourbon reforms: the colonial government was eager to increase and diversify production within the colonies and was aware that unproductive land hoarding was a hindrance to these goals. The Crown reiterated its right to confiscate lands that were not put to productive use, but ultimately decided against coercive measures, presumably in fear of an elite revolt – which eventually happened anyway.

(iv) The drivers and outcomes of dispossession and displacement are so varied that any assumptions about them would be ill advised. Colonial land grabs in the Colombian territories were essential to the gold-centred economy that dominated for approximately three hundred years. The Spanish and the elites in New Granada clearly profited from the dispossession of Colombia's indigenous peoples. However, as this chapter has shown, neither the amassing of huge swathes of land by the *encomenderos* and other powerful Spanish settlers, nor the exodus of indigenous peoples that this prompted, were favourable to economic development – capitalist or otherwise. On the one hand, the early colonial economy, which depended upon the exploitation of indigenous labour, was destabilised by the uncontrolled displacement of the dispossessed. On the other hand, unproductive land concentration is said to have encumbered agricultural production – much of the rural elite in New Granada were nothing like Locke's idealised improving landlords. In contrast, involuntary resettlement, which was essentially a State policy of dispossession and

displacement, played a much clearer role in upholding the colonial economy, as it served both the land *and* labour demands of the regime. The later dissolution of the *resguardos*, yet another form of dispossession and displacement, was supposed to boost production. The short and medium-term effects it had on actual agricultural output are unclear. What is clear is that it contributed to the consolidation of patently non-capitalist haciendas, which many historians have labelled as economically inefficient. Finally, Wood (2002) suggests that Spain “expended its massive colonial wealth in essentially feudal pursuits” and points out that many scholars believe the country’s dependence on the gold and silver it stole from the Americas actually hindered its economic development (pp. 148-149 and 151). In this sense, any attempt to apply the primitive accumulation concept to the processes described in this chapter may obscure rather than illuminate our understanding. As argued in the subsequent chapter, elite-led dispossession, for the most part, continued to hinder economic development in Colombia during the 19<sup>th</sup> century post-independence.

Figures 2 & 3 – The “Viceroyalty of Santa Fé” or “New Granada” in 1810



Note: Figure 2 is the original image and Figure 3 is a cropped version of the same image.

Original Source: *Atlas geográfico e histórico de la República de Colombia*, 1890.

Legal license notice: Agostino Codazzi creator QS:P170,Q1888523, Manuel Maria Paz, Felipe Pérez, División política del Vireinato de Santafé 1810, marked as public domain, more details on [Wikimedia Commons](#).

## **The political economy of land in 19<sup>th</sup> century Colombia: privatisation, property concentration and dispossession on the agrarian frontier**

This chapter sketches the political economy of land in 19<sup>th</sup> century Colombia, focusing especially on the dispossession of frontier settlers in the mid to late 1800s. It shows that this usurpation was mainly, though not solely, driven by traditional landowners' interests in maintaining and expanding a dependent workforce within a predominantly non-capitalist regime of production and labour exploitation. On this basis, I argue that land grabbing by elite groups in post-independence Colombia contributed little to the development of domestic capitalism. I also examine how 'early globalisation' fuelled and shaped a national land rush and ensuing social conflicts. More generally, as with the other historical chapters in this thesis, the narrative that follows facilitates a better understanding of the origins of Colombia's contemporary land issues, by illustrating how the property regime actually formed, while also offering a point of comparison and insights into continuity and change.

The first section offers an overview of the post-independence context. This is followed by a brief description of land privatisation in the early and mid-19<sup>th</sup> century. The government began selling and conceding *baldíos*, as well as issuing bonds that could be redeemed for these State lands. This spurt of privatisation was mainly aimed at paying off government debt, but concessions were also offered in exchange for the construction of infrastructure and to encourage settlement in 'peripheral' areas. Like its colonial predecessor, the newly independent State prioritised fiscal objectives for much of the 19<sup>th</sup> century, contributing to further land concentration.

The third section examines some key liberal reforms of the mid-19<sup>th</sup> century, in particular: the abolition of slavery and the land and labour conflicts that followed; *resguardo* partition/privatisation and the subsequent strengthening of the haciendas; and the confiscation and auction of Church property, which further entrenched the unequal property regime. The liberal ideals that were meant to represent a break from the colonial past only served to concentrate land in the hands of a minority and reproduce the agrarian structures formed under Spanish rule.

Section four examines the *baldío* policy reforms of the 1870s and 1880s. Growing global demand for raw materials and food stuffs prompted a land rush around the mid-century, which meant that property rights acquired increasing importance in frontier zones. The new legislations marked a shift away from fiscal-driven land policy. They sought to encourage agricultural expansion by improving legal protections for peasant settlers who cultivated State terrain (including a rule essentially designed to prevent dispossession) and by making the validity of newly granted titles conditional upon economic use of the land. Nevertheless, the contents of these policies were contradictory; for this and other reasons, accelerated privatisation disproportionately benefitted large landowners.

The fifth and sixth sections present the basic dynamics of agricultural frontier migration in the mid to late 19th century. Frontier lands offered the masses the possibility of breaking free from exploitative work relations. In a context of labour scarcity, this was particularly problematic for the landed elite, who attempted to recreate and maintain a dependent workforce through multiple methods (punitive labour laws, police control, debt trickery), but especially by asserting property rights over vast tracts of land. The laws that theoretically favoured peasant settlers were largely ineffective, and many were forced to become tenants or labourers on land that was once their own or were displaced further afield. Some resisted dispossession, resulting in conflicts that could last for decades. Labour acquisition was not the only motivation for land grabbing during this period. Some 'real estate developers' sought to profit from frontier migration by forcing settlers to pay for the land they occupied. Nevertheless, many acts of dispossession during the 19<sup>th</sup> century did not correspond to an interest in the land itself, but rather in control over labour.

The final section outlines the main characteristics of the Colombian economy in the late 19<sup>th</sup> century and furthers the argument that elite-led land dispossession during this period contributed little to the development of capitalism. I suggest that this land grabbing actually hindered economic development (capitalist or otherwise) in the double sense that the dispossessed were being forcibly incorporated into a 'semi-servile' and economically inefficient hacienda regime and because unproductive land hoarding stifled peasant production, which was becoming increasingly important to the wider national economy.



## 1) Post-independence Colombia

What is now Colombia was part of five different States after the declaration of independence in 1810<sup>47</sup>. These incorporated varying parts of present-day Ecuador, Venezuela, Panama, Peru and Brazil (see Figure 1 vs. Figures 2&3). Even after the Republic of Colombia was formed in 1886, the country's external borders and internal regional divisions continued to change considerably. For example: in 1887 the country was divided into just 9 political regions (compared to 32 since 1991), including Panama (separated in 1903) and an enormous Cauca province, which stretched into territories that have since been assimilated into neighbouring countries (Sociedad Geográfica de Colombia, 2017). For the sake of simplicity, I use the label 'Colombia' flexibly, focusing on those regions that remain part of the country today.

During the 19<sup>th</sup> century, Colombia lived through the Wars of Independence (1810-1819), followed by 8 civil wars and a dozen local armed conflicts<sup>48</sup>. This almost continuous violence links closely to contested State-formation (Moncayo Cruz, 2015, pp. 38–40). The country teetered between liberal and conservative regimes, and federal and central forms of government, which mixed with regional power skirmishes and diverse class struggles. It is not my intention to explain these violent conflicts and the socioeconomic, political and territorial transformations of which they were part. However, it is worth emphasising the tumultuous setting in which the processes described in this chapter -land privatisation, agricultural expansion and frontier migration- took place.

Many people were uprooted by the unrelenting violence (Tovar Pinzón, 1996) and, according to Tirado, land "usurpation came with every civil war", facilitating the expansion of the *latifundios* "at the expense of the peasantry" (cited in Machado, 2009, p. 54). Still, it would be inaccurate to conclude that the landowning elite emerged unscathed. The Wars of Independence, in particular, debilitated many colonial haciendas: workers were forcibly recruited to battle, buildings were occupied as bases, agricultural produce and other goods were commandeered to supply the armies, and the credit system broke down. Civilians and

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<sup>47</sup> These include: United Provinces of New Granada (1811-1816); Gran Colombia (1819-1831); the Republic of New Granada (1831-1858); the Granadine Confederation (1858-1863); the United States of Colombia (1863-1886); and finally the Republic of Colombia (1886-present).

<sup>48</sup> The Battle of Boyacá in 1819 is considered decisive in the War of Independence. However, the final battle was in 1824. Posterior conflicts include: The War of Supremes (1839-1841), Civil War of 1851, Civil War of 1854, Civil War of 1860-1862, Civil War of 1876-1877, Civil War of 1884-1885, Civil War of 1895 and the War of a Thousand Days (1899-1902). In addition, Colombia is said to have suffered 14 local wars during the 1800s (Moncayo Cruz, 2015, p. 20).

soldiers began to loot loyalist wealth. Some peasants used the Wars as an opportunity to take vengeance against their oppressors; many landowners abandoned their haciendas and fled the country. Finally, the newly independent government confiscated properties of those loyal to the Crown (Machado, 2009; Tovar Pinzón, 1996; Zambrano Pantoja, 1982).

Nevertheless, independence did not radically transform social property relations. Many liberation heroes were themselves from wealthy landowning families. Hence, countless colonial titles were left intact. Furthermore, high-ranking military officials and regional elites sympathetic to the republican cause were the main beneficiaries of the abandoned and confiscated properties that formerly belonged to Spanish loyalists. Overall, the landowning class managed to conserve and adapt the hacienda system and independent Colombia inherited the unequal agrarian structures formed during the colonial era. A privileged few controlled the most fertile and strategically located lands (Machado, 2009, pp. 74, 53); while much -perhaps most- of the rural population “worked in the haciendas under nonwage arrangements as sharecroppers, tenants, peons, or domestic laborers” (F. Sánchez, del Pilar López-Urbe, & Fazio, 2010, p. 379).

## **2) Privatisation policies and land concentration in the early to mid-19<sup>th</sup> century**

Notwithstanding the landed power of the elites, the majority of the country’s lands were not covered by legal private titles and hence were considered *baldíos* or State property. These *baldíos* were at the centre of 19<sup>th</sup> century land policy, directed by three main goals: the resolution of government financial problems, the stimulation of economic development (construction of infrastructure and agricultural expansion) and the promotion of settlements in marginal areas. Like its Spanish predecessors, the newly independent government allowed fiscal interests to trump other purposes for much of the 19<sup>th</sup> century<sup>49</sup>, which contributed to entrenched land concentration.

Independence came with heavy financial burdens. The State had accrued enormous debts during the wars with Spain and its coffers were practically empty. The multiple domestic armed conflicts that followed only increased pressure on the Treasury (Tovar Pinzón, 1996; Zambrano Pantoja, 1982). Successive governments attempted to use the

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<sup>49</sup> During the first phase of *baldío* policy (1820-1870), the government prioritised payment of foreign and domestic debts through bond issuance and auctions, while during the second phase (1870-1930), policy shifted towards productive use of frontier lands (Le Grand cited in Sánchez et al., 2010; Machado, 2009).



country's land wealth to help resolve these fiscal difficulties. Legislation passed in 1826 made the payment of external loans via the sale or renting of *baldío* territory a formal policy. At the time, most *baldío* lands had low monetary value, and the government had to privatise enormous swathes in order to make a tiny dent in the amount owed to its creditors (Machado, 2009, pp. 62–63). This fiscal-driven land policy was maintained throughout much of the 19<sup>th</sup> century; lawmakers ranked national debt payment as the priority destination of *baldío* concessions as late as 1873 (*ibid*, pp. 92–94).

The government began issuing land bonds or “certificates of public debt redeemable in public lands” (F. Sánchez et al., 2010, p. 382). It had hoped that foreign recipients would redeem these land bonds, increasing the country's population and agricultural development. Land bonds were also used to meet obligations owed to military officials and soldiers that could not be covered with the properties confiscated from Spanish loyalists. Many of the original recipients sold their bonds, creating a secondary market, which facilitated further land concentration (Vélez Álvarez, 2012, p. 3; F. Sánchez et al., 2010, p. 382; Machado, 2009, pp. 74–75; Zambrano Pantoja, 1982, p. 184). According to Zambrano (1982), national speculators acquired significant quantities of these land bonds at reduced rates (e.g. 5% of their nominal value) – this speculation became one of the most important “mechanisms” of land concentration in the early 19<sup>th</sup> century (pp. 184 and 188–189).

The State also offered individuals and companies direct titles and bonds to encourage the construction of infrastructure such as roads, bridges, and railways. Between 1832 and 1850, some 654,600 *fanegadas* or more than 400,000 ha of *baldío* lands were granted in exchange for public works. A single law (passed in April 1854) conceded 128,000 hectares to one General Tomás Cipriano de Mosquera as a subsidy for construction of the road between Cali and Buenaventura (details of individual contracts provided in Machado, 2009, pp. 72–74). According to Machado (2009), in a handful of cases the promised infrastructure was never completed, but the businesses/individuals kept the land anyway (p. 58).

Finally, the government attempted to entice settlement in marginal territories by offering small land grants with conditions attached, requiring that the beneficiary live on and cultivate the assigned land. Initial policy was especially generous towards foreigners, presumably because the government assumed they were more likely to bring investment than their domestic counterparts. However, diverse schemes failed to attract European and North American migrants, and policy later shifted towards promoting ‘internal colonisation of the agricultural frontier’ (Machado, 2009, pp. 69–71). As discussed below, even policies expressly designed to favour peasant settlers were unable to halt land concentration.

### 3) Liberal reform: the end of slavery and privatisation of *resguardo* and Church lands

In the second half of the 19th century, the government set in motion a number of reforms, including but not limited to: freedom of press and religion; the cancellation of colonial taxes such as the *diezmo*<sup>50</sup>; the gradual liberalisation of trade; the abolition of slavery; the privatization of *resguardo* land; and the confiscation of ecclesiastical property. This is often referred to as the period of ‘radical liberalism’. Many authors represent these reforms as the moment when Colombia shook off its colonial past. However, as we shall see, old habits die hard. The Rionegro Constitution of 1863 was only in place until 1886; the Constitution that replaced it reversed many reforms achieved just over two decades earlier. The push and pull of radical, moderate liberal and conservative forces created conflicts that carried over to the 20th century (Cardona Alzate, 2013; Machado, 2009; Melo, 1996). This section focuses on some of these reforms with the aim of explaining continuity and change in the political economy of land.

The struggles between slave resistance movements and anti-abolitionist groups contributed to numerous local and regional conflicts post-independence. Even after abolition in 1851, some slave ‘owners’ refused to give in, contributing to yet another civil war. Violent conflicts over land and labour followed. The *hacendados* attempted to tie freed slaves to the haciendas through debt bondage and other forms of servitude – with relative success. Nevertheless, many Afro-Colombians relocated to remote areas and established subsistence communities. Some joined the masses of small-scale independent miners (*mazamorreros*), whose modest panning ventures accounted for a considerable portion of national gold production<sup>51</sup>. Others stayed put, but resisted the new forms of oppression mentioned above (Ángel, 2012b, 2012c, 2012d; Fals Borda, 2009; Tovar Pinzón, 1996).

In the North of Cauca, for example, freed slaves occupied unused hacienda land and refused to pay rents. The *hacendados* imposed numerous evictions with the support of government troops, while black communities organised small guerrilla and armed self-defence groups. These land conflicts in northern Cauca carried on into the early 20<sup>th</sup> century

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<sup>50</sup> The ecclesiastical *diezmo*, which applied specifically to the agricultural sector, demanded a contribution of between 30% and 40% of production (Zambrano Pantoja, 1982, pp. 184–185).

<sup>51</sup> Tovar (1996) claims that independent small-scale mining took off in the 18<sup>th</sup> century and grew further with the abolition of slavery. According to Jaramillo (1996), at the end of the 18th century these *mazamorreros* already accounted for some 80% of gold production in Antioquia. Many communities combined panning with subsistence agriculture (Melo, 1996).

(Ángel, 2012c, 2012d) – a period defined by diverse agrarian struggles, as discussed in the following chapter. According to Ángel (2012c), the regional landowning elite was eventually forced to break up its estates and sell them piece by piece to local Afro inhabitants: “by 1940 the North of Cauca was home to an economically and socially autonomous community of black campesinos”, who were able to successfully compete on the global cacao market.

While the Black population was united in the fight against slavery, for indigenous communities the benefits of the government’s ‘modernising’ reforms were not so clear-cut. After independence, the government ordered an end to the tribute system and the restitution of usurped *resguardo* lands. Nevertheless, it also stipulated that the *resguardos* would be partitioned into individual plots. Legislation passed in 1850 reiterated the order to partition and privatise *resguardo* lands and declared complete freedom to sell and purchase the resulting titles. The decision was presented as a recognition of indigenous peoples’ rights to private property (Fals Borda, 2009, pp. 62–63; Machado, 2009, pp. 48–49; Patiño, 1995; Tovar Pinzón, 1996). However, according to Fals Borda (2009), the underlying objective was to “cut their ties to the land they had received and to leave them disposed to work as peons on the haciendas or plantations” (p. 63; see also Ángel, 2012e). Whether or not this was the intention, it was certainly a common result: “many families were left without sufficient lands” and “a considerable portion of the work force that used to live in the *resguardos* [...] became sharecroppers, renters, or simple day labourers”. Meanwhile, parcels apportioned from the collective titles were “[re-]consolidated” to “form new haciendas” (*ibid*, p. 64). Indigenous groups resisted but only a select few colonial *resguardos* survived the onslaught (Ángel, 2012e; Machado, 2009, pp. 48–49; Tovar Pinzón, 1996).

The *resguardo* and the *cabildo* were reinstated under Law 89 of 1890. The new Conservative government restored these colonial institutions as part of its plan to ‘promote civilisation’ and ‘govern’ the so-called ‘savages’ via Catholic missions. As in the past, the recognition of indigenous land claims was a function of other motives. Ironically, however, this overtly racist law, became a key tool of indigenous resistance, used to defend their territories via the *resguardos*, the right to self-government or autonomy via the *cabildos* and to counter other legislation that permitted the sale/confiscation (many more indigenous communities were dispossessed in this way during the first half of the 20<sup>th</sup> century) of *resguardo* lands (Jiménez Herrera, 2014; Pineda Camacho, 2002).

The same discourse that underwrote the privatisation of the *resguardos* was also used to attack the Church’s land control. In 1861, the government (still Liberal at this point) passed a decree to confiscate ecclesiastical property, a policy known as *desamortización*.

Many of the Church's assets were 'surrendered to God' through testaments and wills. Ecclesiastical real estate was inalienable -it could not be bought and sold- under Church rules. Liberals argued that the hoarding of land by religious institutions was detrimental to economic development, which required the free exchange of private property (Knowlton, 1969; Machado, 2009).

Some observers lauded the redistributive potential of the confiscations; however, these properties were sold at public auction. The decision to sell the Church's land to the highest bidder was motivated by fiscal concerns: "proceeds from the sale of the confiscated property were earmarked expressly for the reduction of the internal debt" (Knowlton, 1969, p. 392). As in the past, the government's financial problems ended up dictating policy; "the unfortunate result was to replace one kind of property concentration with another" (Knowlton, 1969, p. 400; see also Machado, 2009, pp. 85–86). Ironically, much of the income gained from the auctions would eventually be channelled back to the Church as compensation for the confiscations. The Conservative government, which gained power in the 1880s, "restored to the Church all property not yet disposed of and acknowledged as a debt the value of the real estate [already] sold" (Knowlton, 1969, p. 401).

All in all, the liberal ideals that were meant to represent a break from the colonial past served to further concentrate land in the hands of a minority and reproduce the inefficient and inequitable agrarian structures formed under Spanish rule. One partial exception to this tendency was the abolition of slavery and the resulting expansion of free black communities in 'peripheral' territories, as well as their establishment -via decades of struggle- as independent producers within hacienda-dominated areas. Nevertheless, as noted above, many freed slaves were forced into other forms of servitude, such as debt bondage; the elite's land monopoly limited the social transformations brought about by abolition.

Alongside the privatisation of *resguardo* and Church land, the disposal of *baldíos* continued apace. The great majority of newly privatised lands were acquired by speculators and a very small percentage were actually occupied and cultivated (Machado, 2009, pp. 94–95). Some politicians were critical of these laissez-faire land policies, which they argued served "the greed of the strongest [...] best situated to take advantage of 'let it be and let it pass' [...] and had generated] a scandalous waste of that great fountain of wealth" (Manuel Murillo Toro, Treasury Secretary in 1851, cited in Machado, 2009, p. 78). The government eventually changed *baldío* policy in the 1870s; though certainly more progressive than what they replaced, these new legislations did not put an end to the 'scandalous waste' of land, as explained in the following section.

#### 4) Export booms, accelerated privatisation and the 1874/1882 *baldío* policy reforms

Despite the squandering of *baldíos* in the wake of independence, an estimated 75% of Colombian lands were still in the public domain as of 1850. These *baldíos* were mostly located in isolated tropical lowlands, “but throughout the Andes and along the coast, vast properties formed in the colonial period lay interspersed with equally vast expanses of public lands to which no one claimed ownership” (LeGrand, 1984b, p. 29). This soon began to change, partially as a result of improving economic prospects, linked to a rise in global demand for raw materials.

While Colombia’s participation in early globalisation was comparatively weak (Bejarano, 1983; F. Sánchez et al., 2010), this economic uptick still had considerable knock-on social and political effects. Furthermore, available data reveals a marked transition away from the historical dependence on mining exports, which arguably in itself represents an important economic transformation. According to Zambrano, agricultural produce (cotton, coffee, tobacco, indigo and leather) and products extracted from the country’s forests (rubber and *quina* for the production of quinine) came to represent the majority of sales abroad (rising from 8% of total exports in 1835 to almost 65% in 1855) for the first time in Colombian history in the mid 19<sup>th</sup> century. Meanwhile, mining exports fell from 74% to just under 15% (Zambrano Pantoja, 1982, p. 189). Melo (1996) provides more disaggregated data and includes later periods, allowing for the identification of successive economic booms: tobacco in the 1850s, *quina* in the 1880s, and banana and coffee in the 1890s.

As argued by LeGrand (1984), “*hacendados* who aimed to profit from improved world market conditions by producing export crops had first to increase their labor force” (p. 27). However, the ‘open’ agricultural frontier made it difficult to retain workers ‘freed’ from their colonial chains. It is in this context that dispossession -in particular, the assertion of property rights over *baldío* lands used by peasant settlers- became a key mechanism of labour acquisition and control.

Prior to the economic booms of the mid to late 19<sup>th</sup> century, peasant settlers (*colonos*) mostly relied on informal land rights; “little more was needed because the frontier land was abundant and economic opportunities from land were limited” (F. Sánchez et al., 2010, p. 380). However, rising migration, combined with new profit-making possibilities, led to

increased land values<sup>52</sup>. Property rights acquired a new relevance in frontier zones. Traditional landowners began to assert the validity of timeworn colonial titles for lands that they had left unexploited. Others forged entirely new ownership claims. Bondholders rushed to trade in their papers for land. In short, changes in global economic conditions contributed to a land rush, which accelerated the privatisation process<sup>53</sup>, as well as prompting alterations to *baldío* policy.

The government sought to “encourage the expansion of the agricultural economy” (LeGrand, 1984b, p. 38) by offering land grants to those who established crops in previously uncultivated zones. Law 61 of 1874 recognised settlers who cultivated *baldío* land for at least five consecutive years as ‘possessors’, making them eligible for property titles. The law also established that titles gained through possession could be revoked if the beneficiary left the land abandoned for more than four years. Law 48 of 1882 built upon and modified the 1874 legislation. It specified that settlers should have access to fair legal proceedings when their land claims were challenged. They could not be expelled from the land unless their challenger could show a legal title granted prior to the dispute. If a court ruled that the cultivator had unknowingly (in ‘good faith’) settled on private property, the titleholder was required to compensate the occupant for crops and improvements prior to eviction. The new law also imposed limits on individual concessions (5,000 ha maximum) and the enclosure of surrounding lands, as new titles could not cover more than double the area cultivated. In other words, legislation appeared to discourage speculative accumulation (Melo, 1996; Machado, 2009, pp. 92–93; F. Sánchez et al., 2010, p. 382).

According to LeGrand (1984), these were the first legislations (apart from those promoting government-planned settlements) aimed specifically at benefitting independent settlers. They “permitted peasants to form homesteads wherever they wished on the national domain” and meant “that the land they farmed was legally theirs and should not be taken from them, even if they had not as yet obtained written titles” (LeGrand, 1984b, p. 38). But things worked quite differently in practice, as shown in subsequent sections.

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<sup>52</sup> Land prices increased rapidly in some areas: “notary data on land sales for the Department of Cundinamarca show that the price per *fanegada* (0.66 ha) rose by more than 200 per cent between the 1850s and the end of the century” (F. Sánchez, del Pilar López-Urbe, & Fazio, 2010, p. 380).

<sup>53</sup> Sánchez *et al.* found that “the titling of public land followed the cycles in export prices”. For example: “during the quinine and tobacco export booms of the 1870s, land granting skyrocketed to nearly 4,000 square kilometers per year [...] After a reduction in titling in the early 1880s, a new rise of over 50 percent in coffee export prices and export growth led titling to a new peak” (F. Sánchez et al., 2010, p. 383).

Furthermore, legislation and policy were themselves inconsistent. For example, Decree 640 of 1882 (regulating Law 48) redefined the amount of land that should be cultivated in order to retain property rights over former *baldíos*: “a concession that was not more than 200 hectares required cultivation of 40% of the terrain, but one between 3,000-5,000 hectares demanded the cultivation of just 10%” (Machado, 2009, p. 102). In other words, large titleholders could “maintain a high proportion of unproductive land” (*ibid*). Law 48 of 1882 itself increased the amount of time -from 4 to 10 years- that *baldío* lands could remain unproductive before being recovered by the State (details of laws provided in Machado, 2009, pp. 92–93, but interpretation is my own). Thus, in some ways the new laws endorsed land accumulation and permitted large areas to be left idle for long periods.

In general, land privatisation continued to disproportionately favour businesses and large landowners (LeGrand, 1984b; Melo, 1996; Machado, 2009; F. Sánchez et al., 2010)<sup>54</sup>. One study found that the vast majority of *baldío* territory titled between 1891 and 1904 went to bondholders, while a very small portion (fluctuating between 3.2% and 8.8%) was allocated to *colonos* (cited in Machado, 2009, p. 103). The government also continued to grant huge areas in exchange for infrastructural development (legal documents suggest over 1.5 million ha were offered or ceded for public works between 1867 and 1892, details provided in Machado, 2009, pp. 97–99). Furthermore, titling data does not reveal the amount of State land usurped by illegal means, which Melo (1996) and LeGrand (1984) suggest may be even more than the amount acquired through formal privatisation.

## 5) The dynamics of agricultural frontier migration

The ‘colonisation’ of secluded lands was not a novel phenomenon. The colonial government promoted the foundation of new towns and villages until the very end of its reign. For centuries, runaway slaves and defiant indigenous groups established communities in remote areas as a means of escaping colonial rule. And poor white and mestizo farmers had long sought space to establish as independent producers. However, frontier settlement increased significantly in the second half of the 19<sup>th</sup> century. This rise in migration has been attributed to multiple factors. Sánchez *et al.* (2010) suggest that “population growth from

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<sup>54</sup> Though all authors agree that large landowners received titles for a larger total area than the *colonos*, precise data is elusive. Melo (1996), drawing on Le Grand, suggests that 73% of privatised land was titled in plots of 1,000 ha or more, while titles of less than 100 ha accounted for just 11%; the remaining 16% was distributed among farms of 100 to 1,000 ha. However, the period this data covers is unclear.

two to five million people between 1851 and 1913 prompted the occupation of the vacant lands” (p. 380). Melo (1996) maintains that demographic pressures and soil exhaustion combined with property concentration to push people out of densely inhabited areas. LeGrand (1984) highlights how settlers sought to take advantage of “new opportunities” offered by foreign markets (p. 30-31). However, she also notes that migrants “included rural artisans displaced by the influx of cheap European manufactures, *minifundistas* impoverished by the fragmentation of their properties, Indians dispossessed of their communal lands, and political refugees fleeing the civil wars” (*ibid*).

These migrations were fostered and facilitated by improvements in transport, which were also stimulated by the emerging export businesses. Until the mid-19<sup>th</sup> century, the majority of people and goods moved along mule/horse paths, and up and down the Magdalena River in small boats propelled by oars and poles. Steamboats only started making regular trips in the 1850s. The growth in commerce also motivated investments in roads (suitable for carriages and not just horses or mules) and railways (Melo, 1996; Zambrano Pantoja, 1982). New infrastructural projects acted as migratory magnets; often the first lands to be cleared were on the edges of roads and railways and along the banks of rivers used as trading routes (Machado, 2009). According to LeGrand, this reflects a “preference for sites with market access” and the “frontier settler’s concern with economic independence and advancement” (p. 31). Many *colonos* produced commercial crops (e.g. “sugar cane, rice, cotton, tobacco, cacao, wheat, and coffee”), as well as food for their own consumption (LeGrand, 1984b, p. 32; Melo, 1996).

Some settlements were organised by the government. According to LeGrand, “people belonging to these [planned] settlements [circa 21 of them were established between 1830 and 1910] were among the few frontier settlers in Colombia to receive title[s]” (p. 34). Other migrations were directed by “colonisation businessmen” (Machado, 2009, p. 93) or “real estate developers” (Christie, 1978). For example, merchants from Medellín traded in their land bonds for such purposes; in addition to forming their own haciendas, “they built crude roads and founded small villages in order to sell land at a good profit to incoming settlers” (Christie, 1978, p. 264; see also Melo, 1996). Other landowners permitted *colonos* to clear land within their estates but had no intention of selling<sup>55</sup>.

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<sup>55</sup> “Tenants known as *colonos a partido* were allowed to clear a parcel of land for their own use on the undeveloped outskirts of the property on the condition that they turn it over to the landlord planted in pasture grasses after two or three years” (LeGrand, 1984, p. 37).



Many more migrations “were entirely spontaneous in nature”. *Colonos* often had to provide their own infrastructure, working collectively to construct a church, marketplace, school, and other essential components of the new *caserío* or village. Those families who settled in isolated areas banded together “to cut mule paths to the nearest town or waterway” or “sent impassioned pleas to the government, asking for penetration roads that would allow them to break into the market economy” (LeGrand, 1984b, pp. 31–32).

The popular narratives surrounding these *colono* migrations might be compared to those romanticising the ‘Westward Expansion’ in the United States. The ‘Antioquian colonisation’, which *began* in the late 1700s and early 1800s, for example, is considered an emblem of the ‘democratic frontier’ in which “bare-foot, *ruana*-clad peasants successfully defeat[ed] latifundistas in their search for land and security” (Christie, 1978, p. 260). Such accounts of frontier settlement, as with many good myths, combine truth and fantasy<sup>56</sup>.

## **6) Land conflicts and dispossession on the agrarian frontier**

Across Colombia, the agricultural frontier was a site of intense, and often violent, conflict (Christie, 1978; LeGrand, 1984b; Melo, 1996). Though not analysed in the literature consulted, frontier migration clearly led to the dispossession/displacement of indigenous peoples in some regions (see e.g. IDMC, 2007, p. 48), and presumably to conflicts between settlers and these communities. Furthermore, *colonos* frequently quarrelled amongst themselves, especially over delimitations between their farms. Often, “the first settlers to enter a given region claimed large areas of unimproved land around their fields. They tried to keep other settlers out or else charged them for the right to settle there” (LeGrand, 1984b, p. 32). However, on the whole, settlers relied on cooperation for survival. The most virulent conflicts were not among the *colonos*, but between them and a varied elite - who either wanted to profit from the establishment of independent producers or halt the process all together. Here I focus on this elite-led dispossession of peasant settlers <sup>57</sup>.

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<sup>56</sup> Christie (1978) deconstructs the legendary democracy of the Gran Caldas frontier – a key settlement route of the ‘Antioquian colonisation’. He describes how a handful of influential families came to control economic, political and social life in the newly settled areas (Christie, 1978, p. 281).

<sup>57</sup> The discussion does not consider the dispossession of indigenous communities by *colonos* or land struggles between settlers – neither of which are well documented in the literature consulted. Given limitations of space and my chosen focus on land grabbing by elites, these issues are -unfortunately- beyond the scope of this thesis.

*Baldío* lands offered the masses the possibility of breaking free from exploitative work relations. In a context of labour scarcity, this was particularly problematic for the traditional and emerging landowning class, who “sought to tie labor to the estates by asserting control over the land, that is, by enclosing the peasants’ fields” (LeGrand, 1984b, p. 33). LeGrand’s research draws on various government documents that “allude to the labor motive” for dispossessing the peasantry. For example: “the *hacendados* have taken over vast zones of public lands ... which they neither work themselves nor allow others to work. By monopolizing the land they aim only to undermine the position of the independent cultivators so as to form from their ranks groups of dependent laborers” (Letter from the Espejuelo Municipal Council, dated 1907, cited in LeGrand, 1984b, p. 35). Other authors concur that the elite accumulated huge areas of land precisely in order to maintain and reproduce a dependent workforce (Bejarano, 1983; Melo, 1996; Zambrano Pantoja, 1982). Thus, during this era, many acts of dispossession did not correspond to an interest in the land itself, but rather in control over labour.

Solano’s (2010) discussion of 19th century labour laws highlights some of the other mechanisms through which a seemingly desperate landowning class tried to overpower workers. The 1857 Bolívar State Police Code required all labour contracts (voluntary and forced) to be registered with the police and allowed for imprisonment of workers who did not fulfil their obligations. The State’s Civil Code of 1862 redefined labour contracts as a matter of civil law. However, posterior regional legislation (e.g. Law 42 of 1867) reintroduced coercive measures such as prison time for workers who violated the terms of their contract. The *hacendados* who controlled the Legislative Assembly in Bolívar lobbied for the maintenance and reintroduction of such punitive measures in a context of labour shortages combined with economic growth (Solano, 2010).

While the government abolished the colonial tribute system and formal slavery, it did little to tackle other forms of servitude such as *concierto forzado* or institutionalised forced labour. According to Solano (2010), the word *concierto* refers to “any type of salaried labour contract, whether voluntary or forced, for domestic servants, agricultural labourers, or highly qualified artisans” (p. 202). (It is worth noting that in many regions of 19<sup>th</sup> century Colombia salaries were not paid in money, but in kind.) Forced labour agreements often applied in cases of vagrancy, which was considered a crime. The term was also used more generally to describe a form of debt bondage (*concertados por deuda*). In addition to the

*concertados* or salaried contract workers, the *hacendados* also used debt trickery<sup>58</sup> to ensnare sharecroppers and tenants. In some regions such labour relations survived into the early 20<sup>th</sup> century; for example, *concierto forzado* wasn't formally outlawed in Bolívar until 1921 (Solano, 2010; Fals Borda, 2009; Ferraro, 2004, pp. 56–59; Bejarano, 1983).

Given the extreme levels of exploitation found across Colombia, it isn't difficult to imagine why people might want to venture into the wilderness and try their luck as independent producers. The elites found half a dozen ways to prevent such autonomy. According to Melo (1996), "the use of police pressure" and "debt peonage" link directly to the *hacendados'* inability to "close the agrarian frontier". Though they could never completely 'close' this escape route, they certainly tried to control it.

Sometimes *colonos* occupied unused lands that had already been titled, which made them extra vulnerable to dispossession. However, elites often deliberately applied for property rights over public terrain that had already been cultivated by settler families. The land grabbers also appropriated territory de facto: they simply fenced-off *baldío* lands and demanded payment for their use. Others illicitly extended the boundaries of existing titles on paper, as well as on the ground. Some used more creative methods, such as filing "imaginary mining claims in order to monopolize the surrounding land" (LeGrand, 1984b, p. 35; see also Machado, 2009; Melo, 1996). According to LeGrand, "mayors, judges, and surveyors [...] facilitated such usurpations".

Dispossession was enabled by the fact that most *colonos* did not have property titles. Though legislation favoured cultivators with 'free' land grants, many *campesinos* could not afford to pay for the application process. Generally, this involved contracting a surveyor to measure and delineate the terrain and a lawyer to help with paperwork; postage or transportation costs to file the application; travel expenses of witnesses to the land claim; and property registration fees if the application was approved (F. Sánchez et al., 2010, p. 382). Just the cost of hiring a surveyor "generally exceeded the value of the cultivated land", in particular when the plot was smaller than 50 hectares (LeGrand, 1984b, p. 33). Furthermore, it is estimated that 70% of the population was illiterate in late 19<sup>th</sup> century (Melo, 1996); the percentage was probably higher among the peasantry and certainly effected their ability to apply for titles and to defend themselves in judicial processes.

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<sup>58</sup> Fals Borda (2009) describes how *hacendados* tied workers to the hacienda, increasing their debts through false accounting, outrageous overcharging for items purchased on loan, and extreme undervaluation of payments made in labour or in kind.

The titleholders (alleged or genuine) usually offered the settlers tenancy or other labour contracts. However, many *colonos* preferred independence and moved to other *baldío* lands. Despite laws ordering compensation, they often received no payment for their years of work. Many were displaced yet again after establishing in new areas (LeGrand, 1984b, pp. 36–37; see also Melo, 1996; Machado, 2009). Some accepted neither subjugation nor displacement:

Faced with the settlers' refusal either to sign labour agreements or to vacate their parcels, the proprietors called on local mayors to evict them. Even if evicted, however, settlers often defied the authorities, returning doggedly to farm their fields once the officials had withdrawn. When this happened, the landlords responded with more direct harassment. They threw pasture seed in the settlers' crops and turned cattle into their fields, pulled down bridges to cut market access, and jailed *colono* leaders on trumped-up charges. In some instances *hacendados* also formed vigilante bands to attack the most recalcitrant *colonos* in order to intimidate the others (LeGrand, 1984b, p. 39).

Such conflicts increased after 1875, as more settler groups “threatened by a single land entrepreneur, began to organize purposefully to defend themselves against encroachment” (*ibid*, p. 37). This increase in resistance, LeGrand argues, is directly related to the passing of the legislations mentioned above, which offered legal recourse to the *colonos*. Many communities combined meagre resources to hire a lawyer. LeGrand found over 400 legal appeals or collective petitions (dated 1874 to 1931) in the Public Land Archives, written on behalf of *colono* groups -ranging from 5 to 100 families- and requesting that the government protect them from usurpation (p. 38-39; see also Sánchez et al., 2010, p. 390-391). Sometimes the peasants were victorious, especially “in regions where settlers were numerous and where they found middle-class allies” (LeGrand, 1984b, p. 39). But often the land grabbers were successful and forcibly transformed “frontier squatters into tenant farmers and laborers” (*ibid*).

It is important to reiterate that labour control was probably the most important, but by no means the only motive for dispossession. Some of the usurpers wanted to profit from rising land prices. Christie (1978) distinguishes between the “classic latifundista-squatter struggle” and those conflicts involving commercial proprietors or “real estate developers”

(p. 264). In contrast to those landowners who attempted to control the rural population by limiting their access to titles, the latter actively sought to sell land to the *colonos*. Hence, in such cases disputes arose simply because the settlers could not or would not pay for the land. The outcome of these conflicts also varied; some land companies were successful in extracting payment from the settlers, others were not (Christie, 1978).

## **7) The weak advance of capitalism in Colombia at the end of the 19<sup>th</sup> century**

There is little evidence to suggest that the processes of dispossession described above contributed to the development of domestic capitalism in Colombia. In the late 1800s the majority of Colombia's population worked in agriculture and capitalist social relations and production (for exchange, based on the exploitation of wage labour, and driven by competition, accumulation and profit-maximisation – see EM Wood) were weak or non-existent in most rural areas. Despite gradual commercialisation and the growth and diversification of exports, most agricultural output was still destined for subsistence or sale on local markets<sup>59</sup>. What market-oriented production existed involved haciendas that usually relied on sharecroppers/tenants and small farms that were predominantly dependent on family labour. The use of salaried workers was limited in both cases, acquiring particular importance only during harvest periods (Zambrano Pantoja, 1982; Bejarano, 1983; Melo, 1996).

Dispossessed peasants who did not search for new land were generally subsumed into the hacienda system. What types of social relations and production systems were the peasant settlers forcibly drawn into via land dispossession? According to Bejarano (1983), types of labour exploitation in the haciendas varied significantly from region to region. However, on the whole, he categorises them as “precapitalist, oppressive to the extreme, and of a semi-servile character, based on monopoly over the land”. He argues that this corresponded to two imperatives: control over a scarce labour force and the reduction of monetary costs (p. 264). Hence, in general, dispossession perpetuated feudal-like relations of production; it was mostly aimed at appropriating rents from the peasantry.

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<sup>59</sup> Melo (1996) asserts that production for “internal consumption” remained much larger than production for export and that “the majority of agricultural produce [...] did not enter into commercial circuits, or only moved in local markets”. He argues that the national market was limited due to the enormous number of self-sufficient producers, the existence of relatively autonomous and isolated regions, and high transport costs. He claims only those producers linked to foreign markets were able to accumulate capital (see also Zambrano, 1982).

Even the export-oriented coffee haciendas, which Bejarano (1996) claims were among the “most dynamic” sub-sectors at the end of the 19<sup>th</sup> century, invested little in increasing productivity. Furthermore, such haciendas sought to reduce reliance on salaried workers and mostly charged tenancy rents in work and/or in kind rather than money, which translated into weak monetisation and integration of surrounding local economies (Bejarano, 1996).

The fact that independent peasants produced the majority of food consumed internally (LeGrand, 1984b, p. 32; Melo, 1996) implies the haciendas’ economic predominance had started to wane, at least in terms of production for domestic consumption<sup>60</sup>, despite the continued accumulation of land by elite groups. By the 1920s small farms were sustaining Colombia’s nascent industrialisation, as explained in the chapter that follows. As such, it became increasingly clear that the type of dispossession described in this chapter (aimed at subjugating *campesinos* to the hacienda), which continued into the new century, was actually hindering growth and capitalist development.

In the literature consulted, there is no mention of the dispossessed migrating to urban areas; in any case, industrial growth had not yet taken off. At the end of the 19<sup>th</sup> century, Colombia had a small number of ‘modern’ manufacturing industries dedicated to the production of textiles, cigarettes, matches, glass bottles, liquor, beer and chocolate. However, artisanal workshops produced many goods, including clothing, hats, ceramic dishware, soap, perfume, candles, shoes, etc. Evidence suggests small-scale independent producers outnumbered wage labourers even in mining - the sector that attracted most international investment. In the 1860s the department of Antioquia accounted for two-thirds of national gold production, yet only 3,000 of the 15,000 miners in the region were salaried (Melo, 1996; see also Tovar Pinzón, 1996). Overall, non-agricultural sectors employed relatively few people and independent producers were central even to these areas of the economy.

Before proceeding, the arguments presented above demand three qualifications. First, and most importantly, this chapter has focused on the dispossession of peasant settlers by elite groups and thus did not discuss the dispossession of indigenous peoples by the *colonos*. Without a doubt the expansion of the agricultural frontier signified further encroachment onto indigenous lands. As explained above, the colonisation of new areas was

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<sup>60</sup> Unfortunately, I have not found any information regarding the proportion of export production accounted for by smallholders relative to the haciendas.

partly driven by the economic upswing and many peasant settlers established commercial, as well as subsistence, crops; in this sense, dispossession and economic dynamism *were* linked. Second, space is insufficient to examine the impacts of those industries based on the extraction of materials from Colombia's natural forests, such as the cutting of quina bark, rubber tapping and tree felling for timber. These industries contributed to the displacement and -in some cases- obliteration of various indigenous groups. So, again, land grabs can be linked with export-oriented growth within the context of capitalist globalisation. Third and finally, the sources on which this chapter is based do not include any examples of elite-led land grabs driven by export crop expansion; it is implied that these were established on lands already controlled by the haciendas. However, this does not mean such cases didn't exist. The evidence presented by the cited authors simply suggests that labour control was the *main* motivating factor behind dispossession. Put simply: for the elites, expanding production was a question of acquiring more workers, not more land.

### **Summary and conclusion**

The post-independence period was marked by almost constant war and political/territorial restructuring. Nevertheless, the tumult did not lead to significant transformations in social property relations; the hacienda system formed during the colonial era prevailed. In the early 19th century, the government began selling and conceding State lands, mostly in order to pay off debts; this contributed to further property concentration. Later reforms driven by liberal ideals, including the partition/privatisation of *resguardo* land and the confiscation and auction of ecclesiastical property, served to further entrench the unequal property regime. Land policy shifted in the 1870s. Prompted by the market openings afforded by early globalisation and pressures to tackle land hoarding, the government promised free land grants to productive settlers. The new laws included rules designed to defend peasants against dispossession and to tie newly granted property rights to economic use of the land. Still, unproductive *latifundios* grew, large landowners remained the primary beneficiaries of privatisation, and peasants continued to be dispossessed. Frontier settlement accelerated in the mid to late 1800s, driven by both push and pull factors. In a context of labour shortages, this posed a problem for the haciendas. The traditional landed elite attempted to halt and reverse the establishment of an independent peasantry by asserting property rights (genuine and bogus) over the lands they cultivated. Some peasant settlers were forcibly converted into tenants and labourers, many ventured on in search of new lands, while others stayed and resisted, leading to conflicts that often turned violent.

Four broad observations merit emphasis: (i) Like in the colonial period, labour control was central to many, and perhaps most, processes of elite-led dispossession in 19<sup>th</sup> century Colombia. As we shall see, this motivation for land grabbing dwindled as capitalist social relations proliferated, methods of production changed, and the population grew.

(ii) The narrative above reveals the complex ways dispossession enacted by private agents interacts with government policy and legislation. The dispossession of peasant settlers in the 19<sup>th</sup> century was not formally endorsed by the State, unlike the forcible relocations of indigenous peoples and the *resguardo* dissolutions under colonial rule. Post-independence land legislation favoured elite groups for multiple reasons, but it wasn't *purposefully* designed to dispossess the peasantry; laws passed in the late 1800s were actually meant to benefit productive smallholders. Like the colonial authorities, the independent government introduced rules to prevent private land grabs; however, elites flouted legislation favouring peasant settlers, just as their predecessors had ignored rules favouring indigenous communities in the 16<sup>th</sup> to 18<sup>th</sup> centuries. And, as shown in the following chapter, the independent government eventually legalised the elites' illicit land claims, as the Spanish did via *composición*.

(iii) The property regime continued to pose an obstacle to economic development, as the landowning elite amassed more land, which they left idle. The privatisation process in the early to mid-19<sup>th</sup> century was heavily influenced by fiscal interests, which favoured those with purchasing power and hence facilitated the concentration of ownership – similar to what happened in the colonial era. Like the Crown, the independent government changed its policy when interests in expanding production came to the fore. But neither effectively tackled unproductive land hoarding. The problem intensified in the 20<sup>th</sup> century, as shown in the subsequent chapter.

(iv) Consistent with the claim reiterated throughout this thesis, this chapter has shown that the motivations and outcomes of land dispossession are varied and do not necessarily serve economic development, capitalist or otherwise. The landowning elite of 19<sup>th</sup> century Colombia attempted to use exclusionary property rights to forcibly incorporate the direct producers into a predominantly non-capitalist production/labour regime. Hence, like with the dispossession that occurred during colonial rule, the concept of primitive accumulation offers an interesting analytical benchmark, but is in itself inadequate for explaining what happened in this period of Colombian history. Furthermore, elite-led dispossession had little to do with coerced land use change and associated increases in exchange value. Chapter 2 discussed the centrality of improvement ideology to the



extinction of customary rights within England and to its colonial land policy in Ireland. In both cases the main objective was land *clearance*; overall, landowners were not interested in retaining peasants, but rather in displacing them to make way for more productive and - above all- more profitable land uses. In contrast, much of the dispossession that took place in 19<sup>th</sup> century Colombia was *not* aimed at clearing the land to make way for more profitable projects, but at squeezing rents out of the peasantry. Forcible displacement was often the outcome of land struggles on the frontier, but usually because peasants refused to accept work as tenants or day labourers. As shown in the following chapter, this started to change in the mid-20<sup>th</sup> century.

## **Economic development and land conflicts in Colombia during the early to mid 20<sup>th</sup> century: occupations, evictions, reform and counter-reform**

This chapter examines the political economy of dispossession and associated displacement in Colombia between the 1920s and the 1970s. I show that during the *initial* years of industrial-take off, elite-led land grabs were, on the whole, inimical to economic development, which was being upheld by smallholder production. Many politicians and officials understood this and hence supported an overhaul of the property regime and a 'peasant path' of agricultural expansion. However, this idea never gained full State backing.

The political and economic dynamics surrounding dispossession *began* to change around the 1940s, largely -but not solely- as a result of the government's decision to support large-scale agriculture at the expense of the smallholder economy. This shift to a model of development based on turning traditional landowners into capitalist businessmen weakened resolve to address historical and ongoing land usurpation and resulting concentration, which seemed more 'functional' to the economy once the policy of propagating 'modern' agribusiness and mechanised farming started to bear fruit. This outcome was far from inevitable.

Multiple factors had favoured development based on family farming. Small and medium farms came to account for the majority of coffee production, which was Colombia's main export until the 1970s/1980s and a major engine of growth in *early* phases of industrialisation. They also produced most of the country's food, despite being squeezed onto a tiny proportion of land. And, notwithstanding the success of industrial agriculture in some sectors and regions, considerable areas of land controlled by elite groups remained un- or under- used. Furthermore, by the mid-century policymakers were interested in decelerating migration to the country's cities, given rising unemployment. Finally, pressure for land reform was strong and the peasantry had some allies within the political establishment. Nevertheless, the government could not or would not effectively challenge the landed elite. For these reasons, and others discussed below, policy vacillated for much of the 20<sup>th</sup> century, between legitimising dispossession and attempting to prevent and/or reverse such processes. Ultimately, however, the landowner path became the State's chosen route of agrarian development.

The chapter begins with an overview of socio-economic change during the early 20<sup>th</sup> century. This is followed by a discussion of various agrarian struggles. In addition to conflicts between *hacendados* and peasant settlers, tenants of established haciendas demanded changes to their contracts or refused to pay rents, while other groups organised mass land occupations. The landed elite began imposing evictions to defend their property claims. Meanwhile, the oil and banana export industries were fuelling other forms of dispossession and displacement.

Section three considers how the land question came to be seen as an urgent issue of national interest in the 1920s and examines the State's initial response. The question became more pressing in the context of urbanisation and industrialisation, as the agricultural sector was unable to keep up with rising demand. Factions of both traditional parties (Conservative and Liberal) believed that expanding production required ensuring the peasantry's access to land, which meant -at minimum- halting dispossession on the frontier. The government responded by strengthening its 'colonisation' program. Many deemed this 'solution' 'insufficient'; however, even *baldío* titling proved controversial.

The fourth section analyses the land laws introduced by successive Liberal governments, which ultimately benefitted large-landowners. The 1936 reform legalised elite land claims secured through decades of dispossession. Nevertheless, a clause that allowed those who unwittingly settled on unused private lands to obtain property rights instilled fear in the *hacendados*, leading to further evictions of tenants and *colonos*. Ironically, legislation designed to boost agricultural production had a detrimental effect on the economy, as crops were replaced with pasture for extensive cattle grazing. A subsequent (1944) law attempted to revive tenant farming; still, the hacienda clearances continued.

Section five focuses on the period of civil war known as *La Violencia*, which intertwined with struggles over land. The violence enabled dispossession and encouraged sales at clearance prices, favouring land concentration and large-scale commercial agriculture in some regions. However, in other regions, the violence was used as an opportunity to challenge and reverse usurpation and contributed to land (re)distribution.

Section six surveys the Colombian economy between the 1940s and 1970s when the government used varied types of protectionist and interventionist measures to boost select manufacturing industries - Colombia's own version of import-substitution-industrialisation (ISI). These policies also underwrote the take-off of capitalist agribusiness, further altering the dynamics of dispossession and related displacement.

The seventh section examines more closely the vacillations and contradictions of the government's agricultural/land policies. Treatment of the agrarian problem changed in the 1940s, as policymakers sought to transform haciendas into capitalist businesses. Unequal land distribution was no longer seen as a problem *per se*; in fact, many believed property concentration could be beneficial, so long as large landholdings were productive. Though ISI type policies were relatively successful at promoting industrial agriculture, this development strategy contributed to economic, social and political problems, which some believed could be partially resolved with redistributive land reform.

The final section discusses the rise and decline of land reform, and the national peasant organisation - ANUC, in the late 1960s and early 1970s. ANUC pressured the recently established land reform agency (INCORA) to act and pushed landowners to negotiate. However, a government changeover in 1970 reversed the situation dramatically. In 1972 the government made yet another pact with the landed elite, promising to limit land reform and back large-scale commercial agriculture. And, for multiple reasons, including violent repression and persecution by the State, the national *campesino* movement was gradually debilitated. In short, the possibility of a 'peasant path' of development in Colombia was forcefully quashed.

### **1) The coffee boom, industrialisation and socio-economic change**

In the 1920s Colombia enjoyed an unparalleled economic boom. Between 1925 and 1929 average annual economic growth reached a high of 7.7%. The total value of Colombia's exports more than doubled from a yearly average of \$44.5 million USD between 1915 and 1919, to \$112 million between 1925 and 1929. Coffee, which by 1924 accounted for almost 80% of exports, was the main engine of growth (Bejarano, 1996; El Espectador, 2013a).

Increased foreign exchange earnings allowed for the importation of machinery and other goods to support industrialisation efforts. Between 1920 and 1929 at least 811 new industrial companies were founded. Most "were oriented to traditional light industries" such as cigarette and textile production. However, new companies within the "intermediary goods and metal-machinery sectors" also emerged (Bejarano, 1996). This growth was enabled by expanding domestic demand, which was largely a result of coffee sales incomes, but also due to public investment (Bejarano, 1996; Ocampo, 1996a).

The Colombian government's financial situation improved with revenues from trade taxes, the \$25 million it received from the USA as part of the Thompson-Urrutia Treaty on the separation of Panama, and better access to international credit markets. Public spending rose from \$5.5 to \$13.7 USD per capita between 1926 and 1929. Much of this money was pumped into the national transport system, with many new projects dedicated to improving connections between the country's regions, thus facilitating the growth of the national market (Bejarano, 1996; Ocampo, 1996a; Campos López, 2003; Machado, 2009, p. 125).

Many authors pinpoint the 1920s-1930s as a turning point in Colombian history. Production by small and medium coffee farms began to overtake the haciendas that had dominated the sector during the late 1800s. According to Bejarano (1996), independent coffee farmers and merchants played a particularly important role in Colombia's economic development during this period, among other reasons, because they had a greater impact on internal demand than the former centralised hacienda system. The implication is that the 'home market' expanded due to the strengthening of a commercial smallholder economy, rather than through the dispossession of the peasantry. In general, *campesino* production was stimulating and financing the country's industrial development. The traditional landowning class felt threatened by the strength of the smallholder economy and the corresponding decline of the hacienda system on which their power was based. Confrontations between tenants/*colonos* and the landed elite intensified (Bejarano, 1996; Ocampo, 1996a; Fajardo, 2015; Molano Bravo, 2015; Moncayo Cruz, 2015), as discussed in the following section.

In addition, economic growth was accompanied by the expansion of wage labour and related social movements and struggles in both urban and rural areas. Construction and transport labourers, workers from the newly established banana and petroleum export enclaves, and employees of the budding national manufacturing sector began to organise strikes aimed at achieving varied objectives. The Conservative government responded with persecution. Some observers suggest at least 8,000 people involved in workers' organisations were incarcerated in the 1920s (Bejarano, 1996). The infamous 'banana massacre' is one of the bloodiest examples of the State's repression during this period: in December 1928 the Colombian Army, under pressure from the US government and the United Fruit Company to put an end to the banana worker's strike, killed an unknown number -some say as many as 3,000- of protestors who were concentrated in the square of Ciénaga (Fajardo, 2015, pp. 101-107).

Just 8 months after the carnage at the United Fruit Company's installations came the 1929 Wall Street crash, which swiftly brought the upswing of the 1920s to an end. Government spending fell and public works were practically "paralysed" (Ocampo, 1996a). Coffee prices fluctuated; in 1940 they hit a low of 7.5 USD cents per pound. GDP growth was negative at the beginning of the 1930s; and though it rose towards the end of the decade, it dropped again during the Second World War (Ocampo, 1996a). In many ways, however, the Depression and WWII served to foment capitalist development and State formation in Colombia. In this volatile context, the Colombian government experimented with a variety of interventionist policies. Also, a limited capacity to import, left the domestic market open to nascent national industries (Ocampo, 1996a). Indeed, according to Moncayo (2015), the 1929 crash was "definitive" in Colombia's "industrial take-off" (p. 45). Similarly, Ocampo (1996) claims that the international crises of the 1930s and 1940s accelerated the socio-economic transformation that had been set in motion during the boom years.

## 2) The agrarian struggles of the early 20<sup>th</sup> century

The construction of new transport routes and increased demand for agricultural goods reinvigorated frontier migration and associated struggles over land and labour. As in the past, *hacendados* attempted to extend their dominion over State lands occupied by *colonos* in order to forcibly incorporate them into the haciendas. Economic changes also detonated conflicts within established haciendas. Tenants started to demand modifications to their contracts, in particular permission to plant coffee on their rented plots<sup>61</sup> and freedom to sell their produce, as well as payment of rents in money or kind instead of labour. Others took a more radical stance: they questioned the validity of the hacienda titles – the basis of their subjugation (Bejarano, 1996; Fajardo, 2015, pp. 101–105; Machado, 2009, pp. 123–129).

Multiple observers concur that the rural masses mobilised around the spuriousness of the elites' land ownership claims (LeGrand, 1984b, p. 41; Bejarano, 1996; Ocampo, 1996a; Fajardo, 2015, p. 105; Machado, 2009, p. 178). Ocampo (1996) suggests that these types of conflicts were most common in areas where the landowner's arrival in the area or expansion onto additional State land was relatively recent; in contrast, *campesino* struggles within haciendas with long-standing property titles tended to focus on improving tenancy

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<sup>61</sup> Many *hacendados* prohibited their tenants from planting coffee, fearing that they would neglect their hacienda duties and compete with them for hired labour during harvest time. Some were also concerned that tenants would use coffee crops to claim rights over the land (Bejarano, 1996).

contracts (see also Bejarano, 1983). Nevertheless, disputes over property rights were not limited to areas with fresh stories of usurpation. Ocampo himself defines “firmly rooted” property claims as those dating from prior to the mid-1800s. And memories of dispossession from the late 19<sup>th</sup> century were still raw: many peasants were convinced of “the illegitimacy of the properties on which they worked” (LeGrand, 1984b, p. 41). Tenants refused to pay rents, while other groups -including migrants and day labourers- organised mass land occupations.

Like in the 19<sup>th</sup> century (recall that the laws introduced in the 1870s and 1880s emboldened peasant resistance), legislative changes are said to have played a key role in activating “rural consciousness” (LeGrand, 1984b, pp. 41–43). In 1926 the Supreme Court determined that in order to validate property rights, the alleged owner had to prove that that these originated in a title granted by the State. The decision was part of wider efforts to increase agricultural production by facilitating peasant’s access to land (*ibid*, p. 43; see also section 3 below). A year later, “in 1927, Congress [...] ordered all proprietors of farms larger than 2,500 hectares to present their titles before the Ministry of Industries for revision” (Machado, 2009, p. 184)<sup>62</sup>. The landowning class protested, labelling the new property test “diabolical”. They organised a legal challenge and stalled investigations into the legality of their property claims. Meanwhile, the Court’s ruling gave strength to peasant struggles: “Many [*campesinos*] knew that the haciendas where they worked did not have such titles because they had been formed through the usurpation of public lands” (LeGrand, 1984b, p. 43; on the importance of the 1926 Supreme Court ruling, see also Fajardo, 2015; Machado, 2009; Bejarano, 1996).

LeGrand’s (1984) research indicates that major land occupations occurred in at least seven different areas of the country. Coffee production predominated in at least four of these zones: Sumapaz, Quindío, Huila and northern Valle del Cauca. In the other two areas cattle ranching (Sinú) and banana production (rural Santa Marta) predominated. These peasant movements were “organizationally unconnected”, but shared a number of contextual characteristics: “all emerged in regions of large *latifundia* with a recent history of land concentration [...] and] tended to be commercially important areas in which the impact of the Great Depression was felt with particular severity” (LeGrand, 1984b, p. 44).

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<sup>62</sup> According to Machado (2009), between 1931 and 1936 just 320,000 hectares were recovered and returned to the State domain (pp. 184-185).

As suggested earlier, the economic boom and the associated rise in land and crop prices, contributed to igniting the agrarian conflicts of the 1920s. The rapid contraction of the economy after 1929 only gave further impetus to peasant struggles. Wage labourers who had been laid off in the context of the downturn joined the rising tide of land occupations (LeGrand, 1984b, p. 44; Machado, 2009, pp. 179–180; Fajardo, 2015, p. 110). In the words of Le Grand: “A popular agrarian reform was in the making” (p. 44). The landed elite fought back. Many called on government forces to defend their property claims and evict unruly *campesinos*, leading to violent skirmishes (Fajardo, 2015, p. 110).

As explained in later sections, the clearance of hacienda lands intensified after the first agrarian reform law was passed in 1936, continued into the 1940s despite the government’s attempts to restore tenant farming, and was revived in the 1960s following the passing of new reformist legislation. Hence, displacement (uncontrolled, as opposed to forcible resettlement) became an overt and widespread objective for the first time in Colombian history in the 1930s. Rather than attempting to acquire and control workers through dispossession, the landed elite were now deliberately forcing them off the land. It deserves reiteration that many (perhaps most) of these clearances were aimed at securing property claims; unlike the historical ‘sweeping of people off the land’ in England and Scotland, these actions were not driven by investment interests and were largely detrimental to the generation of exchange value.

*Hacendados* whose land holdings were not under question faced other challenges: increased worker mobility, combined with peasant demands for changes to their tenancy agreements, were also destabilising the “pre-capitalist hacienda” (Ocampo, 1996a; see also Bejarano, 1996; Fajardo, 2015). Furthermore, the commercial success of small coffee producers defied the traditional landowning classes’ economic power. According to Bejarano (1983), forcible evictions were not only used to defend against *campesino* land claims, but also as a tool for undermining the smallholder coffee economy (pp. 282-283).

The political system was also undergoing a transformation that threatened the traditional elite. A handful of new political parties supported the peasant resistance and the wage worker’s struggles described in the previous section. While the Conservatives attempted to suppress this diversification, the Liberals responded by embracing or co-opting (depending on the observer’s viewpoint) people from other parties and *campesino* and urban labour movements (Fajardo, 2015, p. 111). The new political groups and changes within the Liberal Party “gave a national dimension” to what were otherwise relatively discrete land and labour conflicts (Ocampo, 1996a). Below, I discuss a few of these struggles.



*The Quintín Lame movement and the defence of the resguardo*

The surge in peasant resistance is usually dated to the 1920s and 1930s; however, at least one very important movement predates this period. This movement was galvanised by Manuel Quintín Lame (1880-1967) a farmer, self-taught lawyer and author of Nasa origin. Lame, who had suffered the injustices of the tenant farmer or *terrazguero* first hand, taught himself the workings of the legal system in order to better understand not only tenant's rights, but the laws protecting indigenous communities' land. Ironically, he found that Law 89 of 1890, introduced by the Conservatives with the aim of 'reducing' so-called savages to 'civilised life' (see previous chapter), could be used to support indigenous struggles<sup>63</sup>. He began sharing his ideas with friends and tenants on neighbouring haciendas, encouraging them to refuse the *terraje* or rents paid in labour. Lame visited various indigenous communities in Cauca, Tolima, Huila and Valle; the indigenous resistance movement started to expand (Herrera Ángel, 1993).

In 1914 Lame made the first of many trips to Bogotá, in which he presented his arguments to different government functionaries. Lame demanded an end to the division and dissolution of the *resguardos* and the return of lands that indigenous communities had already lost to such policies and other methods of dispossession. He also argued for the participation of indigenous leaders in National Congress and respect for the *cabildos* as autonomous authorities. In 1938 he managed to get the government to pass a Decree ordering the reestablishment of the Ortega and Chaparral *resguardos*, but local authorities refused to implement it. The movement, however, was never limited to legal battles (*ibid*).

Indigenous groups recovered lands *de facto* via occupations, denied rent payments to landowners, and refused taxes on *resguardo* land. The landowning elite put pressure on the authorities to act, as well as taking matters into their own hands - or, at least, those of their hired thugs. Dozens of people were killed and many movement leaders were jailed and tortured. Lame himself was detained at least five times and spent a number of years behind bars. The indigenous land struggles initiated by Quintín Lame continued (and continue to date) through various movements and organisations (Herrera Ángel, 1993; Alape, 1999).

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<sup>63</sup> While the law was built on explicitly racist foundations, it also contained clauses that could be used to defend indigenous self-governance through the *cabildos* and territory via the *resguardos*. Over the years many indigenous leaders, organisations and movements invoked this law in their struggles (Jiménez Herrera, 2014).

*Peasant mobilisations and the fight for land in Sumapaz*

This mountainous area south of Bogotá was home to one of the largest peasant movements of the early 20th century. As in other parts of the country, the *hacendados* of Sumapaz had a history of forcibly converting *colonos* into tenants by laying claim to the State lands on which they had settled. According to Molano (2015), land struggles in the area can be traced to the arrival of new peasants following the Thousand Days War<sup>64</sup>, “but Decree 1110 of 1928 was the fuse that ignited Sumapaz” (p. 171; see also Bejarano, 1983, p. 280; Machado, 2009, p. 183). This legislation provided legal backing for the establishment of six ‘agricultural colonies’ - including one in Sumapaz. It promised titles to new *colonos* and settlers already established in the ‘colonisation zones’ (Presidencia de la República, 1928a).

Regional leader, Erasmo Valencia, began to investigate which areas had private titles and to demarcate *baldíos* for inclusion in the colony. Inhabitants of the area, with the help of Valencia and other leaders, formed the *Sociedad Agrícola de la Colonia de Sumapaz* (Machado, 2009, pp. 183, 200). This organisation was comprised of “more than 6,000 peasants who claimed the land of haciendas illegally consolidated in the 1830-1930 period” (LeGrand, 1984b, p. 46). The *hacendados* appealed to the local authorities and police to defend their land claims, leading to clashes. But the central government backed the *campesinos* by acquiring a number of *latifundios* for redistribution. Small independent farms gradually replaced many of the local coffee haciendas (Molano Bravo, 2015, pp. 170–172).

The *campesino* success in Sumapaz was later destabilised during *La Violencia* of the 1950s. Repression under the Conservative regime “led the *colonos* to organise militarily” (Molano Bravo, 2015, p. 173). Various peasant self-defence/guerrilla groups united under the leadership of Juan de la Cruz Varela. In 1953 the majority agreed to demobilise on the condition that usurped land be returned to the *campesinos*. When this and other conditions were not met, many began to reorganise. In 1955 the government declared Sumapaz a ‘zone of military operations’. The ‘anti-communist’ offensive led to the displacement of thousands of peasants. They fled, under the protection of guerrilla fighters, to the highlands of Sumapaz, towards southern Tolima, and to Huila, Meta and Caquetá. This process is often referred to as ‘the armed colonisation’; it led to the creation of the so-called ‘independent republics’ and was fundamental to the birth of the FARC (Molano Bravo, 2014, 2015).

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<sup>64</sup> Circa 100,000 people were killed and an unknown number displaced during this conflict (1899-1902), which ended with the defeat of the Liberal guerrilla forces by the Conservative government.

*Indigenous resistance to dispossession and displacement by the oil industry*

New conflicts materialised with the development of the oil industry. Indigenous groups were worst affected. The exploitation of the 1905 Mares Concession in the Middle Magdalena region led to the total annihilation of the Yariguíe peoples by the 1940s. They had resisted the invasion of their territories, but were defeated by the oil contractors and their firearms (Velásquez Rodríguez, 2013). Similarly, the Motilón-Barí lost circa two-thirds of their ancestral lands -in and around North Santander- and half their population after three decades of oil operations. The Motilón-Barí resistance was suppressed with the help of Law 80 of 1931, which approved the deployment of State armed forces to protect petroleum operations<sup>65</sup> (Avellaneda Cusarí, 2004, pp. 464–465; Murillo, 2004, pp. 138–139).

The wave of usurpation led by the oil companies was usually followed and/or preceded by another driven by large landowners who sought to take advantage of the newly constructed roads, bridges and ports servicing the extractive industry. Speculators also rushed to acquire property titles in and around the oil concessions in order to benefit from rising land values. Similar dynamics (e.g. improved infrastructure, demand for agricultural produce from the oil boom settlements, land price rises, jobs) attracted *colonos* and other migrants, who often clashed with the indigenous inhabitants and established peasant settlers (Avellaneda Cusarí, 2004, pp. 456–466; Flórez & Moncayo, 2011, pp. 47–50). Oil-related land conflicts spread and intensified, as the industry gained increasing importance in the Colombian economy.

For many indigenous peoples', the dispossession carried out by the oil companies with State backing was/is a continuation of colonial land grabs. A leader from Nasa Cxha Cxha in Putumayo explained: "Just like the Spanish came to plunder the gold, now they are coming to plunder the black gold" (Personal Interview, 2015; see also the narrative of a Barí in IDMC, 2007, pp. 45–49). While there are clearly some basic similarities, these processes of dispossession were/are different in that they are shaped by the demands of capitalist enterprise; growing systemic pressures for exploiting land-based wealth; productivist ideologies - in particular the notion of national economic development; and *disinterest* in native people's labour, which shifted the objective from retention and control to simply pushing indigenous groups out of the way.

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<sup>65</sup> "The government will provide the contracting companies with due protection to prevent or repel attacks by the Motilones or savages that reside in the regions [...] subject to this contract, it will do this using groups of armed police or the public forces" (Law 80 of 1931, Article XIXb).

*Land struggles in the United Fruit banana export enclave*

Alongside oil-related land grabs, another important form of investment-driven dispossession was occurring in the banana export enclave near Santa Marta. The US-based United Fruit Company had established a vast empire in the region by the 1920s. It controlled the railway lines, irrigation systems and credit markets, whilst asserting property rights over 60,000 hectares of land and forming contracts with some 350 suppliers who worked another 20,000 ha (LeGrand, 1984a, pp. 178–184; see also Machado, 2009, pp. 126–129). The infamous banana massacre of 1928 has drawn attention to the history of wage-labour struggles in the area; however, less well-known are the associated battles over land, described by LeGrand.

The economic boom generated by United Fruit Company's activities attracted migrants from other parts of the country. Some became wage labourers, but many set up as independent cultivators on *baldío* lands. Others became 'semi-proletarians' - farming their own land whilst also taking on seasonal salaried employment. LeGrand describes the mass dispossession of these peasant settlers owing to the United Fruit Company's "constant encroachment on to public lands" (p. 184). The firm got local authorities to forcibly evict the *campesinos* or imprison their leaders and sent its goons to destroy their farms. The *campesinos* petitioned the central government for protection, generally to no avail. Peasants resisting dispossession joined forces with the labour unions in the battle against United Fruit. Later, as the banana export economy declined, the dispossessed and laid-off workers organised land occupations, generating further conflicts (LeGrand, 1984a, pp. 184–192).

Initial dispossession was tied to a coercive change in land use. The banana export crops expanded at the expense of peasant food production (for subsistence and for sale on local and regional markets): land "pressures reached a peak during the boom years of the 1920s when the area planted in bananas around Santa Marta doubled in size" (LeGrand, 1984a, p. 184). Still, large areas of the land claimed by the United Fruit remained unused; this may be "explained by the Company's concern to keep out competitors and by the struggle with banana blight, which required shifting cultivation and the continual opening of new land" (*ibid*). According to LeGrand, land appropriation was also partially motivated by the company's desire to maintain and expand a *wage* labour force.

### 3) The land question as a national problem and the ‘agricultural colonies’ solution

The explosion in rural conflicts intertwined with renewed attention to the land question at the State level. Between 1926 and 1927 the cost of “subsistence goods” in urban areas (home to a quarter of the population, at the time) rose by around 30%. The government had to introduce an emergency law to reduce or eliminate tariffs on certain food imports. This generated tense debates surrounding the agricultural sector’s inability to keep up with rising demand (Bejarano, 1996; see also Fajardo, 2015, p. 103; LeGrand, 1984b, p. 43).

Some attributed the problem to labour shortages, worsened by the outflow of workers from the haciendas to construction and other sectors that offered higher wages<sup>66</sup>. Fajardo (2015) notes how the *hacendados* even attempted to use penal law to stop “the drain of workers” (p. 103). This is particularly interesting because it suggests that initial industrialisation in Colombia was at least partially supported by voluntary migration, rather than forcible displacement. In contrast to Marx’s account of primitive accumulation in England where the expulsion of the peasant population by the landowning class helped forge an industrial wage labour class, in early 20<sup>th</sup> century Colombia, the landed elite was desperately trying to stop workers from leaving their estates to work elsewhere.

Many others blamed urban food price inflation on land hoarding by elite groups (Bejarano, 1996; see also Fajardo, 2015, pp. 103–104). Policymakers were aware “that most foodstuffs for internal markets were supplied not by the large estates but by peasant producers” (LeGrand, 1984b, p. 43), who had difficulty accessing or maintaining access to land. It was becoming increasingly clear that the concentration of land ownership (achieved via decades of dispossession), and the property system that sustained unproductive *latifundios*, posed obstacles to the country’s economic development<sup>67</sup>. Again, the contrast with the ‘English experience’ is striking: for the most part, elite-led land grabs in Colombia were not aimed at revolutionising agriculture; they were the prelude to a very long history of idle landownership, a problem that still impedes Colombia’s agricultural sector to-date.

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<sup>66</sup> Construction salaries in Bogotá rose by 75% between 1923 and 1929 and the difference of pay between agriculture and public works was almost 100% in Antioquia, 60% in Santander and 20% in Valle del Cauca. In addition, the “general working conditions” on the haciendas tended to be poorer than those in urban industries and State-funded construction sectors (Bejarano, 1996).

<sup>67</sup> Consider the following quote from the Minister of Finance (1927-1929 and 1931-1934) Esteban Jaramillo: “the true gravity of all these conflicts lies in the nature of our property system, which is consecrated by formulas that do not fit well with the necessities that have been created by the national development” (cited in Machado, 2009, p. 194).

Between 1830 and 1930 the government approved over 5,500 concessions of public land, totalling circa 3.3 million hectares. Some 80% of the privatised land was granted in parcels of 1,000 hectares or more (LeGrand cited in Machado, 2009, p. 59). An even larger area was privatised and concentrated via illegal appropriation (LeGrand, 1984b; Melo, 1996; Machado, 2009). The high proportion of land used for pasture relative to cultivation (by 1934 crops still only accounted for 2.4% of land use<sup>68</sup>) provides an indication of speculative accumulation. As noted by Bejarano (1996), extensive cattle grazing was the easiest route for establishing claims over large areas of *baldíos* (see also Machado, 2009).

In the early 20<sup>th</sup> century successive laws made modifications to the land titling regime, maintaining the basic principles of the 1874 and 1882 legislations (see Chapter 4), which -in theory- favoured productive peasant settlers. The government reiterated the need to recover State lands (see previous discussion of the 1926 Supreme court ruling) that were not put to economic use and its commitment to titling smallholdings (see e.g. Law 56 of 1905 and Law 71 of 1917). However, as in the past, the costs of applying for a title -though the titles themselves were free- excluded many *colonos* from the privatisation process (Machado, 2009, pp. 129–147, 152–155; Fajardo, 2015, p. 105).

Those who participated in the government's official 'colonisation' programs had a better chance of receiving a title. Such schemes had existed since the 19<sup>th</sup> century, but government-backed settlements received special attention in the 1920s (Machado, 2009, pp. 148–158). Decree 839 of 1928 provided unified guidelines for the establishment of these 'agricultural colonies' (Presidencia de la República, 1928b). The Decree determined that all participants should be offered a small amount of money for the first 6 months, a house, basic furniture, a number of farm animals, and agricultural tools. The cost of these start-up resources was to be paid back to the government over a 20-year period at 6% annual interest, with the settler's land title serving as loan collateral (Article 7 & 9). All *colonos* who participated in the government's settlement programs were entitled to a land grant of between 10 and 75 ha; the Colonisation Commission was responsible for lot demarcations, paid for by the government (Articles 7 & 8). So, the settlers of these 'colonies' were exempted from the surveying fees and other costs normally implied in the titling application process.

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<sup>68</sup> This data is taken from Bejarano's (1996) text. It is unclear whether the figure of 2.4% is relative to the total land area of Colombia or the area cleared. The author writes: 43.7% of the "utilised area" was grassland mostly dedicated to cattle grazing and that "the remainder was destined to forests".

Some observers critiqued the colonisation programs as an evasion of necessary redistribution (Machado, 2009). However, even the titling of State lands was perceived as a threat by factions of the landed elite. Consider the story of Sumapaz, discussed earlier: conflicts intensified following the creation of a 'colony' in the region. The government was essentially offering support for the establishment of an independent peasantry, a process that many *hacendados* had spent decades trying to stop. Thus, up to a point, the 'agricultural colonies' could be read as the governments' response to the *hacendados* relentless pursuit of settlers in frontier zones; i.e. a bid to curtail the dispossession of productive smallholders.

Diverging visions of the country's development generated tensions within and between political parties (Fajardo, 2015, pp. 103–106). Segments of the political establishment (Conservatives and Liberals alike) believed facilitating the peasantry's access to land was necessary in order to achieve the increase in agricultural production required to supply the food and raw materials for industrialisation. In addition, some advocated for the expansion of a rural middle class that could sustain demand for domestic manufacturing. Radical Liberals and their left-wing allies, in particular, favoured a complete transformation of the agrarian structure, which would require more than colonisation programs (Machado, 2009, p. 169).

#### **4) The return of the Liberals and the disastrous new land laws**

The 1930 elections ended more than four decades of Conservative rule. The new Liberal government promised a break from the policies and practices of their predecessors. However, notwithstanding some very important advances in labour law -such as the right to strike, to form unions and the 8-hour work day (Ocampo, 1996a)- the Liberals were unable or unwilling to fully implement the agenda on which they were elected, especially with regard to land.

The government implemented a re-distribution program in a limited number of areas affected by land conflicts. The program allowed alleged proprietors to sell un-used land at a good price, sometimes "exaggeratedly high"; while the *campesino* 'beneficiaries' were saddled with debt, which they took out to pay for the redistributed plots. Much of this land "had been usurped or had dubious titles" (Machado, 2009, pp. 190–191). In other words, the government (and indirectly the peasants) effectively paid *hacendados* for properties they had acquired illicitly. Estimates suggest just 430,000 ha were distributed between 20,000 beneficiaries in the 1930s -1940s (Ocampo, 1996a; see also Bejarano, 1983, p. 281).

Those *hacendados* affected by the above-mentioned ‘fire-fighting’ redistribution program accepted this without much resistance; it allowed them to receive commercial prices for mostly marginal lands within or surrounding their estates, even in cases where they lacked legitimate title (Machado, 2009; Ocampo, 1996a). However, opposition to broader reform was organised and strong. Reformist legislators had put forward a draft law that was supposed to bolster existing norms linking property rights to the ‘economic exploitation of the soil’. Apparently, “if the 1933 project had become Law, more than three fourths of private property in Colombia would have been reverted to the nation” (LeGrand cited in Machado, 2009, p. 187). Critics portrayed the proposals a “Bolshevik” project that “sought to destroy private property in Colombia” (Machado, 2009, pp. 200–207; Fajardo, 2015, pp. 112–113). And, according to Melo, “the conservation of a minimum of peace between the two parties was conditioned on leaving the rural situation intact” (cited in Fajardo, 2015, p. 107). So, the landed elite and their allies managed to water down the original proposal and the resulting legislation ended up reinforcing the inequitable property regime (Machado, 2009, pp. 200–207; Fajardo, 2015, pp. 111–113).

The new agrarian legislation (Law 200 of 1936) benefitted the landed elite in a number of ways. First and foremost, it put an end to the Supreme Court’s ‘diabolical test’, which had established that only land claims backed by a title granted by the State were valid. In other words, the legislation allowed usurped State lands to become legal private property (Fajardo, 2015; LeGrand, 1984b; Ocampo, 1996a). The government essentially opted to ‘forgive’ and ‘forget’ decades of dispossession.

The *hacendados* were also given an additional 10 years to make their land productive. According to Ocampo (1996), even after the decade long extension had expired, idle properties were not confiscated. Furthermore, Law 200 accepted the presence of livestock as sufficient proof of land use; “with the introduction of a few heads of cattle, [one] could establish private property and avoid prescription or reversion of property to the State” (Machado, 2009, p. 269). This opened the way to “extensive cattle latifundios” (*ibid*).

Hence, many observers agree that Law 200 did very little to change rural structures (LeGrand, 1984b; Ocampo, 1996a; Machado, 2009; Fajardo, 2015). Sánchez and Meertens (1983) characterise the Law as “a landowner solution to the agrarian problem, based on gradually transforming latifundistas into capitalist entrepreneurs” (p. 31). Even this objective was pursued timidly: the Law did not “obligate the latifundistas to immediately modernise the conditions of production” (Moncayo cited in Machado, 2009, p. 171).



Nevertheless, the few pro-*campesino* elements of the reform that survived the botching of the original project were enough to ensure a ferocious reaction from many landowners. The most controversial aspect of the Law (from the landowners' perspective) was Article 12, which allowed 'good faith' occupants, who had cultivated private land for more than 5 years, to acquire property rights via prescription (Law 200 of 1936 cited in Machado, 2009, p. 197). This Article was supposed to protect peasants who unwittingly settled on unused private property, believing it to be *baldío* land. However, according to Ocampo (1996), it also allowed rebellious tenants to claim ownership over the land they worked by disowning any informal tenancy agreements. (Note: in some cases, this may have been State lands claimed illegitimately by the landowning elite, but which were now recognised as private property under the new law.) Fearful landowners began to evict peasants. These "mass expulsions" led to an "extension of cattle grazing on hacienda land", which meant -ironically- that Law 200 had exactly the opposite of the desired effect: agricultural production fell (Bejarano, 1983, p. 282; see also Machado, 2009, pp. 200–215).

In 1944 the government passed Law 100, which granted further concessions to the landed elite. The new law made it easier for landowners to evict tenants and endorsed the prohibition of slow-yield or permanent crops (*cultivos de tardío rendimiento*) on rented land, which excluded many *campesinos* from participating in the coffee market. It also obligated a shift from informal verbal agreements to formal written contracts, which combined with the landlords' right to forbid permanent cultivations, made it nearly impossible for tenants to claim the plot they worked. These same contracts could be used to prove active economic exploitation of the land by absentee proprietors and hence enabled them to avoid forfeiture proceedings. The landowners were also granted an *additional* 5-year extension for putting their properties to use (Machado, 2009, pp. 231–238; see also Fajardo, 2015; Moncayo Cruz, 2015).

Law 100 was meant to counteract the effects of Law 200 and revive tenancy farming. Nevertheless, evictions continued apace. Later laws aimed at stimulating the cattle industry contributed to further land clearances. In 1945 a journalist warned: "the threat of eviction is always upon the tenant peasants; the policy of the landowners is to raze the fields sown by small producers, to clear the land, and convert all plots into cattle-grazing pastures" (Diario Popular article dated June 10th 1945, cited in Machado, 2009, p. 272). By the end of the 1940s an estimated 43 million hectares were used for cattle grazing, while just 2.1 million ha were cultivated (Machado, 2009, p. 277).

### 5) *La Violencia*: dispossession/displacement and the origins of contemporary conflict

By the late 1940s, Colombia had plunged into yet another civil war. This period of conflict, known as *La Violencia*, is usually considered to have begun in 1948, following the assassination of Liberal presidential candidate Gaitán. However, violence between political groups and linked to land/labour struggles had been escalating since the 1930s. Molano (2015) asserts an alternative periodization of *La Violencia* (1925-1955), pointing out that approximately 14,000 people had died in violent clashes by the end of 1947 (pp. 152, 163). In any case, the violence intensified and spread after Gaitán's murder. Riots in the country's main cities were put down relatively quickly via military occupation, but rural areas were engulfed by bloodshed. Circa 200,000 people were killed over the following decade and 1-2 million were displaced (Reyes Posada, 2009, p. 40; Zamosc, 1986, pp. 14-17).

According to Sánchez and Meertens (1983), "the most salient characteristic of the first two governments during *La Violencia* (1946-1953) was state terrorism" (p. 38). The Conservatives used government forces and militia groups to launch a brutal campaign against liberal and communist sympathisers. Liberals and communists responded by organising guerrilla groups and peasant self-defence forces. Many of these groups were just as ruthless as their conservative counterparts, attacking civilians and soldiers alike. Meanwhile, the army bombed guerrilla-strongholds and committed massacres in liberal areas (Molano Bravo, 2015, pp. 174-175, 169). Massive forced displacements served to further "politically homogenise villages and regions" (G. Sánchez & Meertens, 1983, p. 38).

*Gamonales* or powerful landowners<sup>69</sup> mobilised peasants under their influence to attack opponents and communities dominated by the rival party. They usurped lands and crops by getting their henchmen to displace or murder the original owner and forced sales at low prices. Many also sought reprisals against the peasant leaders/organisations who had challenged them in the preceding years. Some observers even refer to *La Violencia* as 'the landowner's revenge'. However, *campesinos* also used violence on their own account, to displace and dispossess families of the opposing group or to avenge their repressors and usurpers (G. Sánchez & Meertens, 1983, p. 38; Ocampo, Avella, Bernal, & Errázuri, 1996; Molano Bravo, 2015, p. 175; Machado, 2009, pp. 310-311). In sum: "landlords and peasants were beginning to use the *Violencia* to settle by force old and new land disputes" (Zamosc, 1986, p. 15).

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<sup>69</sup> A *gamonal* is "the rich man of a small place, who owns or possesses the most valuable lands, he is like a feudal lord of the republican parish, who influences and dominates the district" (Melo, 1998).

Despite some unifying elements, the dynamics of *La Violencia* were markedly different from region to region (Bejarano, 1983). Sánchez and Meertens (1983) note, for example, that the liberal guerrillas in southern Tolima were “the most directly manipulated by businessmen and *hacendados*”. In Sumapaz, in contrast, peasant associations “with a solid tradition of organised struggle” were “transformed into a wide and disciplined guerrilla movement”, which forced the government to “treat the problem in the region, not as a case of public [dis]order, but as a land conflict” (pp. 39-40). By far the largest guerrilla force was that of the eastern plains. Initially the guerrilla of the plains worked in alliance with the liberal *hacendados*, like in southern Tolima. However, the landowning elite of the region later disowned the rebels they had once backed and formed an agreement with the army (Fajardo, 2015, p. 116; Molano Bravo, 2015, p. 170; Machado, 2009, pp. 312–315).

There were an estimated 40,000 to 55,000 guerrilla fighters across Colombia by 1953 (Molano Bravo, 2015, p. 175). The sheer quantity and the changing quality of these armed groups presented a growing threat to the country’s elite, liberals and conservatives alike. Many *gamonales* lost control over the militias they had created. In some regions, class struggles began to overpower conflicts between members of opposing political groups. In 1953 segments of both parties supported the installation of a military government under General Rojas Pinilla (Bejarano, 1983; G. Sánchez & Meertens, 1983; Machado, 2009), putting an end to “the last, and the most important, of the clientelist wars in Colombia” (Zamosc, 1986, p. 18).

Soon after assuming power, Rojas offered amnesty to the various guerrilla groups. He then passed a law to make communism illegal, imposed heavy press censorship and launched a major military offensive to squash the last of the armed subversion. Months of bombing and ambushes -especially in the area of Villarrica between 1954 and 1955- caused thousands of civilians and guerrillas to flee, leading to the ‘armed colonisation’ mentioned earlier (Molano Bravo, 2015, pp. 170–178; Machado, 2009, p. 319; G. Sánchez & Meertens, 1983, p. 41).

Rojas soon began to demonstrate too much autonomy from the oligarchy that had rushed him into power. Once again Colombia’s elite were forced to make a pact in order to maintain control. Negotiations gave rise to the National Front in which the Conservatives and the Liberals agreed to alternate power and to share government positions. The power sharing deal, which excluded alternative political parties, began in 1958 and lasted 16 years until 1974 (G. Sánchez & Meertens, 1983, pp. 41–42; Moncayo Cruz, 2015, p. 51; Zamosc, 1986, pp. 15–16).

Formally, the military takeover and subsequent National Front agreement meant the end of *La Violencia*, but it also marked the transition to another phase of violent conflict. In many areas, the landed elite continued to control small armed squadrons, which they used to persecute the political opposition and/or recalcitrant *campesinos*. Meanwhile, some 'political bandits', as Sánchez and Meertens (1983) call them, coordinated with State forces and "acted as agents of terror against the organised struggle of the peasantry" (p. 63). Others were more like "criminals for hire"; for example, the *pájaros* in Cauca Valley "fulfilled a clear function of expropriating and dispossessing peasants, at the service of the booming sugar business" (p. 55). Finally, there were 'social bandits' who acted as "spokespersons for the discontented peasantry" (G. Sánchez & Meertens, 1983, p. 42 and 62; see also Bejarano, 1983, p. 293).

Some groups fall outside the category of 'bandits' entirely. This is the case of the radical liberal peasant self-defence communities turned communist guerrilla. The success of the insurgency in Cuba, combined with exclusionary and repressive politics at home, contributed to a formal acceptance of armed struggle within the Colombian Communist Party, which continued to work with the guerrilla forces that had formed during *La Violencia*. Meanwhile, US military assistance to Colombia received a boost following the Cuban Revolution. In 1959 the US sent a team of counterinsurgency experts to the country. Plan LASO or the Latin American Security Operation was launched a few years later in 1962. Following the battle at Marquetalia in 1964, a number of guerrilla groups, plus members of the Communist Party, held the 'First Guerrilla Conference'. They drew up an Agrarian Program – containing the guiding objectives of their struggle. In 1966, during the 'Second Guerrilla Conference', the rebels changed their name from 'Bloque Sur' to FARC or the Revolutionary Armed Forces of Colombia (Molano Bravo, 2015, pp. 182–188).

In another region of Colombia, a group of youths -just returned from a visit to revolutionary Cuba- joined forces with union leaders, student groups and peasant organisations (with historical links to the liberal guerrilla) to form the ELN or National Liberation Army. They launched their first attack in Simacota - Santander in January 1964. A few years later, in 1967, the EPL or Popular Liberation Army carried out their first assault in Córdoba. The EPL was the armed wing of the Marxist Leninist Communist Party (PCML), which arose after those critical of the Soviet Union broke away from the Communist Party (Molano Bravo, 2015, pp. 188–189, 196). The following year, the Colombian government passed a legislation, reaffirming existing policy that allowed the Military to arm and train civilians as part of the State's counterinsurgency efforts (Prensa Colectivo, 2006).

In sum, *La Violencia* was the beginning of the contemporary armed conflict in Colombia. Explanations of this bloody episode are diverse<sup>70</sup>, but many agree that struggles over land were a crucial element (Machado, 2009; Molano Bravo, 2015; Fajardo, 2015). The effects of this phase of conflict are equally varied and perhaps even more intensely debated than its origins. There is considerable disagreement specifically over the causal links between *La Violencia* and the ‘modernisation’ of agriculture (arguments discussed in Bejarano, 1983, pp. 296–297; Zamosc, 1986, pp. 17–18; Ocampo et al., 1996).

It is ambiguous whether dispossession during this period contributed to an expansion of the rural proletariat. Available data suggests the overall proportion of agricultural wage labourers compared to independent producers did not change significantly in the long run<sup>71</sup>. Still, a number of authors emphasise a drop in rural wages in the 1950s and 1960s due to a temporary ‘oversupply’ of labour (Ocampo et al., 1996; see also Machado, 2009, p. 307) - *possibly* an indication that the violence contributed to a temporary surge in the number of salaried workers. Meanwhile, rural to urban migration did accelerate around this time and, thus, the violence *may* have added to the wage labour class in the towns and cities<sup>72</sup>. However, the unequivocal outcome of the violence was the further opening of the agricultural frontier, as many of the *campesinos* forcibly displaced and/or dispossessed fled to these ‘colonisation’ zones to re-establish as autonomous producers<sup>73</sup>.

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<sup>70</sup> Bejarano (1983) provides a succinct list (citations omitted): *La Violencia* “was a revolutionary tension [...], it was an instrument of repression and revenge of the landowner against the popular classes, it was a communist subversion in reaction to anti-communist repression, it was the conflictive response of a feudal or pre-modern society to modernisation, or the other way around - a disordered demand for change [...], it was also a violent reaction to monogamy and catholic marriage” (pp. 284-285).

<sup>71</sup> According to Ocampo et al. (1996), the proportion of wage labourers in rural areas, relative to independent producers, fluctuated between 42% and 46%. The authors do not provide a precise period for this data; though they suggest it applies from 1938 until the time the chapter was written (presumably the late 1980s, though the book was republished in 1996). Also, comparing the population census of 1954 to that of 1964, Zamosc (1986) actually found “a slight *increase* in the proportion of the rural population engaged in *independent farming*” (p. 25, emphasis added).

<sup>72</sup> It is difficult to find urban vs. rural population data that covers the period of interest. Circa 2.3 million Colombians moved from the countryside to the cities between 1951 and 1964 (Zamosc, 1986, p. 23); i.e. *in the later phases of conflict*. Zamosc estimates that violent forced displacement can account for only a third of this population shift.

<sup>73</sup> I have not encountered any data on the numbers of people who moved to the agricultural frontier during this time (1940s and 1950s), but countless documents make reference to the thousands of displaced families that re-established in these ‘colonisation’ zones. Indeed, the literature consulted emphasises this outcome far more than rural to urban migration.

Even in terms of land control, the *overall* outcome is not clear-cut. According to one source, some 393,648 “parcels” were usurped during this period, mainly in Valle de Cauca, Cundinamarca, Tolima, Gran Caldas and Norte de Santander (CNMH, 2015b, p. 43). Some authors suggest that this dispossession reinforced unequal agrarian structures. Indeed, a number of studies document how elites took advantage of the violence in order to extend their landholdings. At the same time, qualitative research also reveals cases of land (re-)distribution amidst or after *La Violencia* (Bejarano, 1983; G. Sánchez & Meertens, 1983; Machado, 2009). Zamosc (1986) sums up: it’s a “complex picture that includes not only landlord encroachments against peasants but also gains by peasants at the expense of landlords, [and the] dispossession of peasants by peasants in factional strife” (pp. 17-18).

The government did little to address violent land usurpation. Law 201 of 1959 declared that consent may be considered void for property transfers that exploited the “internal commotion”. However, the legislation was not widely applied. Similarly, the Tribunals of Conciliation and Equity, which were meant to ensure the restitution of lands and other assets usurped during the conflict, were disbanded after a year. This failure, combined with government attacks on areas where many displaced people took refuge, most likely contributed to the rise of the armed insurgency (CNMH, 2015b, pp. 46–48) and renewed land conflicts. As shown in previous sections, memories of dispossession tend to shape ongoing struggles. And, notwithstanding ambiguity regarding the overall distributional effects of the violence, many *campesinos* perceive(d) the war as a “strategy [... to] dispossess the peasants who had the best lands” (son of man displaced during *La Violencia* cited in IDMC, 2007, p. 141; also Personal Interviews, 2014-2015).

## **6) The consolidation of industrial capitalism and persistence of peasant production**

According to Ocampo et al. (1996) “the capitalist development that had accelerated in Colombia in the first few decades of the 20<sup>th</sup> century consolidated definitely in the years after the Second World War”. The Colombian economy prospered amidst the violent conflict: between 1944/5 and 1954/5 gross domestic product (GDP) grew at an average of 5% per year; industrial production grew even faster at 9.1% over the same period. The government adopted import substitution industrialisation or ISI as the main economic strategy. By the late 1950s, domestic manufacturers were able to supply most of the country’s consumer goods, and had begun to produce many intermediate and capital goods also (Ocampo et al., 1996).

Colombia maintained *varied versions* of ISI -later combined with export promotion<sup>74</sup>- until the mid 1970s. Despite diverse economic problems, the country sustained relatively high growth rates overall during this era<sup>75</sup>. Protectionist/interventionist measures were partially inspired by the theories promoted by the Economic Commission for Latin America and the structuralist school, which challenged development models based on export-dependent growth and free-markets. However, as noted by Kalmanovitz & López (2006), Colombia's experience of ISI was very different from the "populist projects in the Southern Cone"; it was essentially an elitist enterprise (p. 4). Powerful manufacturing and agricultural interest groups encouraged and were the main beneficiaries of the ISI strategy (Ocampo et al., 1996; Kalmanovitz & López, 2006; Machado, 2009, p. 268).

Though ISI is most commonly associated with the promotion of manufacturing industries, Colombia also applied the model to some agricultural sectors. For example, the government nurtured domestic cotton production (serving national textile industries) using ISI type measures and the country transitioned from importing to exporting cotton in just over a decade. According to Ocampo et al. (1996), Colombia was able to avoid an "excessive industrialist bias". Overall, they argue, industrialisation served agricultural development, and advances in agriculture served industrial growth<sup>76</sup>.

Coffee continued to account for the majority of Colombia's export earnings; in fact, the proportion rose from 66% of the total between 1925 and 1949 to 71% of total export value between 1950 and 1969 (GRECO, 2001, p. 11). Nevertheless, Ocampo et al. (1996) argue that the coffee sector, which had driven the first phase of Colombia's industrial development, lost momentum in the post-war era. This, they suggest, also had symbolic import: smallholder coffee production remained predominant -63.9% of the total area planted with coffee corresponded to farms of less than 10 hectares- but the country "no longer praised the peasant coffee farmer as a national hero" (Ocampo et al., 1996). The

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<sup>74</sup> From 1967 onwards the government actively promoted export diversification (Ocampo, Avella, Bernal, & Errázuri, 1996). This "induced a rapid growth of manufactured exports, which grew to US \$100 million in 1970 and increased by 500 percent in the four subsequent years" (Zamosc, 1986, p. 99).

<sup>75</sup> GDP growth averaged 4.4% between 1954/5 and 1966/7 (Ocampo et al., 1996). The World Bank has records for Colombia starting from 1961. Their data shows that annual GDP growth did not fall below 4% in the 1960s and 1970s, except for 3 years: 1963 (2.9%), 1965 (3%) and 1975 (2.2%) and was above 6 per cent for 7 of these 20 years (World Bank, 2017a).

<sup>76</sup> Kalmanovitz and López (2006) are NOT convinced of the overall benefits of protecting agriculture. They suggest that "industry was forced to pay prices above those in international markets for its agricultural inputs and this interfered with the growth of some branches" of the economy (p. 16).

lacklustre of the coffee sector in the 1950s and 1960s<sup>77</sup> coincided with the rise of industrial farming, which replaced the traditional hacienda in some regions (Zamosc, 1986, p. 24; Ocampo et al., 1996).

Bolstered by ISI policies, many large and some medium-sized farms began to adopt new production methods (e.g. by the 1960s a quarter of cultivations were mechanised) and to replace tenants and sharecroppers with wage-labourers. This process, however, was limited to certain sectors (e.g. cotton, rice, refined sugar cane and export bananas) and regions (e.g. Valle and Huila). On the whole, capitalist agribusiness became predominant in flatlands amenable to mechanisation; while peasant agriculture prevailed in the mountains (Ocampo et al., 1996). Zamosc (1986) confirms this generality, while also outlining a more complex portrait of rural Colombia in the 1960s, including variations within the Andean *campesino* economy, the prevalence of *colonos* in the Amazon plains, the persistence of traditional *latifundia* especially in the coastal regions, and the limited geographical reach of 'agrarian capitalism' (pp. 25-32).

Still, the growth of domestic agribusiness and changes in production techniques started to alter the political economy of dispossession and displacement. Mechanisation, combined with population growth, meant that land grabbing as an explicit method of labour acquisition became less common. It may have even given 'modernising' landowners additional motives for expelling tenants (other than to protect their property claims), especially during the later phases of hacienda clearance. Nevertheless, according to Ocampo et al (1996), mechanised crops were mostly established on lands formerly used for extensive cattle ranching and hence usurped from *colonos* or cleared of tenants in earlier epochs. So, land accumulated through dispossession in decades and even centuries past was being incorporated into the capitalist production system. Property rights claims that had long hindered economic development were now underwriting an expansion of exchange value, at least in some regions. Historical land concentration was sometimes insufficient to satisfy rising demand; in this sense, agribusiness growth also stimulated new processes of dispossession<sup>78</sup>.

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<sup>77</sup> This loss of dynamism was turned around in the mid-1970s. In the decade prior, The National Coffee Grower's Federation began implementing a program of technical assistance - contributing to the sector's revitalisation (Ocampo et al., 1996).

<sup>78</sup> For example, the dispossession and displacement of the peasantry during *La Violencia* is said to have served the expansion of the sugar industry across the Cauca Valley between the 1940s and 1960s (Mondragón, 2007; G. Sánchez & Meertens, 1983).



While national and international observers celebrated the “spectacular expansion of large-scale mechanized agriculture” in Colombia (Zamosc, 1986, p. 21), small farmers were still pulling much of the country’s economic weight. The first agricultural census of 1960 revealed that 61.3% of total production, in terms of volume, came from farms with less than 20 hectares. This same group -farms smaller than 20 ha, the majority of which were *minifundios* with fewer than 5 ha- represented 86% of production units but controlled just 14.5% of the country’s land (Zamosc, 1986, pp. 24–26).

## **7) Unresolved agrarian problems and diverging solutions**

Well-off men or those with moderate fortunes hoard land, making it more and more difficult for the agricultural worker to acquire a parcel. [...] The anti-economic system of land purchases based on [speculative] investment criteria continues to be one of the most serious obstacles to the development of Colombian agriculture [... The government must] guarantee adequate solutions in order to prevent the need for drastic measures such as expropriation (Economic Development Committee report from 1951, cited in Machado, 2009, p. 328).

The above quote reveals persistent concerns surrounding land hoarding. The committee had been formed to examine the findings and recommendations of the 1949-1950 International Bank for Reconstruction and Development (World Bank) mission led by Lauchlin Currie (Machado, 2009, pp. 327–328). Currie’s report underscored the inefficiency of land use in Colombia: “flat extensions situated in the fertile valleys are dedicated to cattle-ranching, while the mountain slopes are employed for agriculture” (cited in Machado, 2009, p. 277). One of Currie’s main proposals was a tax increase on unused or underused land. However, according to Machado, this policy was never properly applied due to practical obstacles and opposition from the traditional landowning elite, which “found important allies” in the urban middle class who also had speculative land investments (pp. 326-329).

The Colombian government opted instead for a regime of positive incentives - including tax breaks, subsidies and various forms of assistance- to encourage increased production. This strategy was relatively successful at promoting large-scale commercial

agriculture in some regions (Ocampo et al., 1996; Zamosc, 1986; Machado, 2009), as discussed previously. However, these measures were insufficient. Indeed, the problem identified by Currie -the disproportionate use of arable land for cattle grazing- exists to date.

Overall, from the 1940s onwards, the Colombian government's treatment of the agrarian problem changed. Low productivity, rather than unequal land distribution, was considered the main obstacle to economic growth (Machado, 2009, p. 305; Ocampo et al., 1996). Policy makers sought to transform unproductive landowners into capitalist entrepreneurs. Agrarian political economists call this the *junker* path or the landowner solution to the agrarian question. From this perspective, unequal land distribution is not necessarily a problem and can actually be beneficial to economic development, so long as large landholdings are used productively. This was the view espoused by the Lauchlin Currie who played an active role in Colombian policymaking between the 1950s and the 1970s (Brittain, 2005, p. 342).

Currie supported the promotion of large-scale mechanised agriculture on Colombia's flat lands, which was favoured by concentrated property holdings. Furthermore, he considered peasant production to be "an irrational use of labor power" and claimed that the rural masses would be better exploited as workers in urban industries (Zamosc, 1986, p. 21). James Brittain (2005) sums up: for Currie "depeasantization (= dispossession, displacement) would [...] fuel a virtuous cycle of growth/development" (p. 344). Brittain (2005) argues that Currie's theory of "accelerated economic development", which insisted on the benefits of mass rural to urban migration, effectively endorsed the violent uprooting of the peasantry in Colombia. Brittain's critiques are well founded, but arguably his article overstates Currie's influence and understates the importance of other issues/actors in determining land and agrarian policies in Colombia<sup>79</sup>. By the 1960s, the partial implementation of a Currie-style strategy had started to cause significant social, political and economic problems. It seemed that some of these problems could be -at least partly and temporarily- resolved by democratising land access.

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<sup>79</sup> Brittain (2005) himself mentions the pro-land reform influence of the Economic Commission for Latin America, the structuralist school and the Alliance for Progress. However, he does not say how this impacted upon agrarian policy in Colombia and insinuates instead that Colombia became a testing ground for Currie's theory (p. 343). However, the 'Currie model' was not applied consistently; the negative impacts of this model -identified by Brittain- forced the Colombian government to implement countermeasures. In some ways Colombia's policy choices from the 1950s to 1970s directly contravened those recommended by Currie. In fact, according to Kalmanovitz & López, "the government formally rejected [Currie's] proposal", even though many politicians supported it (p. 7).

This view was supported by the Latin American structuralists, who proposed land redistribution as a solution to multiple issues. It would permit increased agricultural production by transferring the means of production from idle landowners to productive peasants, thus reducing the wasteful use of foreign currency to pay for food imports and the raw materials required by domestic industries. It would stimulate internal demand for domestically-produced consumption goods by permitting a more equitable distribution of wealth and encouraging the formation of a rural middle class. And it would help to quell rural tensions and to integrate the peasantry into democratic politics and civil society (Brittain, 2005, pp. 339–340; Kay, 1998, pp. 9–16). In short: redistributive reform was not dead - though Currie and other advocates of ‘the landowner path’ might have wished it so.

Despite the manufacturing boom of the 1940s and 1950s, urban industries were unable to provide sufficient work for newly arriving migrants and displaced persons. The government was keen to stem the flow of people from rural to urban areas. Meanwhile, agricultural mechanisation limited job creation, and in some cases led to job loss, in the countryside. Real wages in the agricultural sector were stagnating or in decline. The gap between rich and poor was widening. Some saw rural poverty as a strain on internal demand, which would eventually limit national industrial growth. And while the urban working class fared slightly better than their rural counterparts, many families were forced to limit their consumption of non-essential items during periods of food price inflation. Crop expansion and productivity gains were limited to a few commercial cultivations, which combined with population growth, contributed to bouts of ‘food scarcity’ (Ocampo et al., 1996; Zamosc, 1986).

All of these factors influenced the government’s decision to pass another agrarian reform act. But perhaps the main motivations were political. Land struggles persisted and even intensified in many areas after *La Violencia* (Machado, 2009, p. 341; Zamosc, 1986, pp. 40–45). Furthermore, the communist ‘threat’ had been transformed from a ghost story into a tangible possibility following the Cuban Revolution. The US government had considerable influence over Colombian policymaking. Its communist containment strategy in Latin America combined military aid and economic and social programs under the Alliance for Progress (Fajardo, 2015, pp. 117–118). This initiative “played an important part in bringing about agrarian reform” in a handful of countries across South America during the 1960s (Kay, 1998). As noted by Molano (2015), it was not a coincidence that President Kennedy visited Colombia the same week that the 1961 Agrarian Reform Law was passed (p. 179).

In sum, almost exclusive government support for large-scale -especially mechanised-farming since the 1940s was increasingly questioned by policymakers for economic, social and political reasons. Some authors suggest that the new reform program was merely a palliative and was not intended to transform rural structures in Colombia. Whether or to what extent renewed interest in land reform was genuinely aimed at supporting a 'peasant path' of agricultural development is a question that cannot be resolved here. In any case, the programs and policies activated in the late 1960s were more successful than previous attempts at reform (thanks to an organised peasantry, which enjoyed a brief period of State support), but were quickly cut short and ultimately didn't have a significant impact on overall land distribution - as shown in the following section.

### **8) The rise and decline of agrarian reform and the ANUC peasant movement**

Law 135 of 1961 was supposed to help "eliminate and prevent the inequitable concentration of rural property and its anti-economic fragmentation" (Article 1, Paragraph 1). Other aims included: promoting economic use of idle lands, increasing agricultural production, enabling tenants and salaried workers to access their own properties, and improving the socio-economic welfare of the peasantry. The legislation established INCORA, the Colombian Agrarian Reform Institute, which was put in charge of acquiring private lands and redistributing these to *campesinos*, as well titling State lands, overseeing and organising the colonisation of the agricultural frontier, and ensuring that producers had access to infrastructure, technical support and financial assistance – among other things (Articles 2-3, Law 135 of 1961).

According to Ocampo et al. (1996), between 1962 and 1967 INCORA's activities were mostly directed at the provision of infrastructure, technical support and credit. As in previous eras, land reform efforts were confined to 'firefighting' and "very little was done in the areas of *latifundia*, where the major redistribution effort should theoretically have taken place" (Zamosc, 1986, p. 36). A handful of politicians openly criticised the scant results of the program. Leading this group was Carlos Lleras Restrepo, elected to fill the Liberal presidential quota in 1966. He understood that the political establishment was likely to block genuine reform, so he looked to the rural masses to impulse it themselves. Lleras formed a special committee to help build "a direct corporatist bridge between the peasantry and the state" (Zamosc, 1986, p. 52; see also Ocampo et al., 1996). The project began with Presidential Decree 755 of 1967, which proclaimed the need for 'popular participation' in

government programs and established a process for registering present and potential beneficiaries or 'users' of the State's agricultural services. Next, they launched a campaign to encourage membership, got local government agencies to administer registration forms, sent 'promoters' to rural areas to organise municipal and departmental associations of the registered users, and provided training courses for local peasant leaders. Three years later the ANUC (National Association of Peasant Users) was fully operational. By October 1971 the organisation had grown to include 634 municipal associations and 28 departmental associations, with 989,306 members (Zamosc, 1986, pp. 54–57).

Meanwhile, land conflicts were intensifying in various regions across the country. Some of these struggles were linked to legislation aimed specifically at assisting tenants and sharecroppers who wished to become proprietors of their rented plots<sup>80</sup>. Landowners launched yet another mass eviction campaign in response. This dynamic was especially visible in the coastal plains, where traditional tenant farming was demolished in just a couple of years. The evicted tenants began to organise land invasions with the help of the ANUC. In this and other regions, the strength and persistence of the ANUC forced the landowners to negotiate; INCORA would step in, acquire the occupied property and coordinate redistribution to the peasants (Zamosc, 1986, pp. 49–50, 67, 79, 88–96; see also Ocampo et al., 1996).

In many ways, Lleras' plan had worked: the ANUC process had strengthened peasant organisation and helped *campesinos* project a loud and united voice in favour of land reform. But Lleras finished his term in 1970, just as ANUC was taking off. Meanwhile, the landed elite, which was already organised into economic interest groups, had launched their own campaign, proliferating communist scare stories in the press and pressuring the government to 'restore order'. The new Conservative president Misael Pastrana (whose electoral victory was tainted by allegations of fraud, giving rise to a fourth guerrilla group: the M-19) had promised to continue the reform efforts of his predecessor, but just a year after taking office, he backtracked. The armed forces were given the green light to evict land invaders and functionaries supportive of the ANUC were fired. By late 1971 the institution had established a blacklist of people to be excluded on the basis of their participation in 'illegal activities', including land occupations (Zamosc, 1986, pp. 68–72, 103–104).

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<sup>80</sup> According to Ocampo et al. (1996), the sharecropper/tenant program initiated under Law 1 of 1968 had a very limited impact, other than scaring landlords who proceeded to impose mass evictions. In figures: "INCORA only managed to acquire 20.5% of the land registered in the program, covering 12% of aspiring applicants" (Ocampo et al., 1996).

The government/landowner reaction only fuelled the ‘radicalisation’ of ANUC members, who called for the “immediate and free redistribution, expropriation without indemnification of all *latifundia*, limitation of the size of landed property, [...] collectivization of capitalist agricultural enterprises”, among other things (Zamosc, 1986, p. 72). These demands were incorporated into the subsequent ‘Peasant Mandate’, which proposed that the *campesinos* should achieve these goals themselves, rather than wait for concessions from the State. ANUC coordinated approximately 1,000 land occupations between 1970 and 1975; the majority (645) took place in 1971 – the year of ANUC’s ‘radicalisation’ and the year the government reinstated repression as the principle tool for dealing with the peasantry (Zamosc, 1986, pp. 73–75).

During the 1970s the government militarised entire areas and sent the armed forces to break up protests and land occupations. The army and police killed dozens of peasants and threw entire groups in jail. In addition, the landowners continued to use militias and hired thugs to attack *campesinos*. These *pájaros*, as they are sometimes called, were allowed to operate with impunity and assassinated an unknown number of ANUC leaders (Molano Bravo, 2015, p. 182; Reyes Posada, 2009, p. 29; Zamosc, 1986, pp. 103–104, 127–129). This violent repression and legal persecution, alongside many other factors, contributed to the gradual weakening of the ANUC (for a full explanation of ANUC’s decline see Zamosc, 1986).

In January 1972 the Pastrana administration called a meeting with representatives from both political parties and from the private sector. The government swore to limit land reform and to boost support for large-scale agricultural production (which it did), while the landowners accepted taxes based on the census value of their land (this was not fully implemented, according to Ocampo et al., 1996). The agreement came to be known as the ‘Pact of Chicoral’, after the town where the meeting took place. Zamosc (1986) labels the agreement “a formal declaration of agrarian counter-reform”, arguing that it signalled “the final breakdown of the attempt to forge an alliance between the peasantry and the bourgeoisie” (pp. 98–99). In brief: the landowner path, which had never been fully abandoned, became the State’s official chosen route of agrarian development.

Arguably, changing economic conditions shaped this decision: the shift to an export-led growth strategy lessened pressures to boost internal demand by improving the lot of the peasantry; rural to urban migration once again became desirable, as this could contribute to wage suppression required for competitiveness on global markets; and capitalist agriculture was supposed to provide the primary inputs for industry and food for urban workers more cheaply than ‘traditional peasant production’ (Zamosc, 1986, p. 99).

New legislation (e.g. Laws 4 and 5 of 1973 and Law 6 of 1975) institutionalised the pact. Law 4 erected numerous barriers to confiscation/expropriation; for example, by loosening the definition of “adequately exploited” land and by guaranteeing compensations at market value (instead of census value) with a larger portion paid in cash up front and higher interest rates on deferred payments. This, combined with budget cuts, severely limited INCORA’s redistribution power. Law 5 established the Agricultural Financial Fund, which would support mainly large-scale, mechanised, commercial cultivations with special subsidised credits. And finally, Law 6 imposed new rules for sharecropping and tenancy contracts. Among other things, lands within estates cultivated by peasants under official tenancy/shareholding agreements were protected from redistribution (Ocampo et al., 1996; Zamosc, 1986, pp. 98, 126).

Between 1962 and 1985 INCORA acquired approximately 4.5 million ha, which were redistributed between 65,000 families. The vast majority of these lands (3.6 million ha) were acquired through forfeiture proceedings (*extinción de dominio*); the original owners ‘forfeited’ their property rights because they had left the land idle for more than 10 years (as in Article 6 of Law 200 of 1936). Just under 66,000 hectares were expropriated. The remaining lands were acquired through purchase or cession (Ocampo et al., 1996). The 1970 agrarian census revealed that at least 800,000 rural families in Colombia were landless. Many other families were land poor (Ocampo et al., 1996). Hence 65,000 reform beneficiaries in over 20 years was a relatively modest number, and even that was hard won by *campesino* struggle. As noted by Ocampo et al. land redistribution peaked between 1968 and 1971, as a result of peasant actions (see also Zamosc, 1986, pp. 147–148).

The bulk of INCORA’s efforts were directed at encouraging colonisation of the agricultural frontier or titling existing occupations within these zones. The average size of State land grants fell after 1961, presumably as a result of the new laws placing stricter limits on titling (Villaveces Niño & Sánchez, 2015, p. 27). Nevertheless, there are suggestions that privatisation continued to favour large landowners, even if the tendency was much less marked than in the previous eras (see e.g. Machado, 2009, pp. 289–290). All in all, INCORA granted circa 260,000 titles, covering more than 7.7 million ha of *baldíos*, between 1962 and 1982. The most important ‘colonisation zones’ were in the south/southeast of the country (Ocampo et al., 1996). As discussed in the following chapter, these also became important coca growing regions and areas of rebel stronghold. In general, the government’s decision to ‘resolve’ the land problem by encouraging colonisation contributed to the most recent phase of violent conflict (Fajardo, 2015; Gutiérrez Sanín, 2015b; Molano Bravo, 2015).

## Summary and conclusion

This chapter has outlined the changing political economy of land in Colombia between the 1920s and the 1970s. In the early 20<sup>th</sup> century, *on the whole*, Colombia's economic development proceeded despite -rather than because of- dispossession and displacement. These processes threatened to undercut smallholder production, which was supporting and fuelling industrialisation. The traditional rural elite continued to lay claim over State lands in order to subjugate workers to the haciendas until at least the 1920s. However, as peasant movements became more combative, the *hacendados'* priorities changed. They imposed evictions in order to guard against peasants' land claims. The clearance of hacienda lands, which intensified in the 1930s -1940s, was largely detrimental to agricultural production.

Initially, the government seemed intent on halting and reversing processes of dispossession and supporting the development of the smallholder economy. The central government, with the backing of the Supreme Court, initiated a campaign to recover State lands acquired illegally; though in the end this was unsuccessful. It also revived official colonisation programs, which can be read as an attempt to ensure *campesinos'* access to land on the agrarian frontier and to prevent the further usurpation of *baldíos* by the elite. Finally, reformist legislators put forward a land law that was supposed to bolster existing norms linking property rights to the 'economic exploitation of the soil'. However, the landed elite managed to water down the original proposal and the resulting legislation (Law 200 of 1936) ended up reinforcing the inequitable property regime and legalising the accumulation of land achieved via decades of dispossession.

After the first failed attempt at reform in the 1930s, the Colombian government's treatment of the 'agrarian problem' changed: low productivity, rather than unequal land distribution, was considered the main obstacle to economic growth. Policymakers began to actively promote the conversion of unproductive haciendas into dynamic capitalist firms. The role of dispossession and displacement in the Colombian economy started to shift mid-century with the growth of domestic agribusiness and especially mechanised farming. Many proprietors made use of idle or pasture lands, much of which had been usurped from peasants in the past. Others acquired additional lands and in some cases were aided by *La Violencia* during which hundreds of thousands of properties changed hands and millions of people were displaced.



Though 'de-peasantisation' was part and parcel of the development model unofficially adopted by the Colombian State as far back as the 1940s, it also posed serious economic, political and social problems. The renewed attempt to implement a redistributive land reform in the 1960s was aimed at addressing or minimising these issues. This was more successful than previous endeavours but didn't have a significant impact on overall land distribution. The landed elite held considerable sway over the central government and quickly stymied the reform efforts. All in all, from the early 1920s up until the early 1970s, government policy in Colombia teetered between legitimising dispossession and displacement and attempting to halt, or at least slow, such processes. Eventually, State policy veered definitively towards favouring a landowner path of agrarian development.

This chapter includes the following key points: (i) Dispossession motivated by labour acquisition diminished as capitalist agriculture developed and the hacienda system -based on squeezing rents from the peasantry- began to decline. Though seasonal labour shortages persisted in some rural areas, mechanised production and other labour-saving technologies, combined with population growth, meant that acquiring a workforce ceased to be a primary concern of the landed elite. Land conflicts accelerated this process and led to widespread hacienda clearances, which represented the inverse of previous processes of dispossession that had been aimed at retaining *campesinos* within the large estates. Finally, land grabs driven by investment interests became more frequent with the growth of capitalist agribusiness and the oil industry. This type of dispossession became ubiquitous at the end of the 20<sup>th</sup> century, as discussed in subsequent chapters.

(ii) Dispossession carried out by private actors interrelates with State policy in complex and changing ways. In the early 20<sup>th</sup> century, like the late 19<sup>th</sup> century, the dispossession of peasant settlers was not formally condoned by the central government. Legislation continued to recognise *colonos* as the legitimate possessors of the *baldío* lands they occupied and cultivated. Nevertheless, the government also legitimised and perhaps even incentivised the elite's land grabbing practices: in the first instance by purchasing land without legal title for redistribution - effectively compensating *hacendados* for properties they had acquired illegally, and in the second instance by repealing the so-called diabolical property test, a decision that translated into the legal recognition of vast estates established through the usurpation of *baldíos*. Moreover, the later hacienda clearances were broadly 'legal' precisely because the government had recognised the property rights of large landowners, including over State lands they had accumulated illicitly. Nevertheless, this process went against the objectives of the agrarian legislation(s) that encouraged/enabled

it and hence was not State policy, unlike, for example, the English parliamentary enclosures of the 18<sup>th</sup> and 19<sup>th</sup> centuries. Finally, this chapter also suggests that political will to address historical and ongoing dispossession and resulting land concentration diminished as government policy shifted towards the promotion of large-scale commercial agriculture.

(iii) Just as in the colonial era and the 19<sup>th</sup> century, government officials and policymakers continued to comment on the problems caused by a property system that allowed a small group of people to maintain large areas of un- or under-used land. As in the past, little was done to address the issue – at least, until the late 1960s when INCORA started acquiring idle lands for redistribution through forfeiture proceedings. However, INCORA's activities were significantly reduced following the Pact of Chicoral and the problem of land hoarding persists to this day. It is worth recalling that legislation explicitly accepted *extensive* cattle ranching as sufficient economic exploitation of a property for legal purposes, despite the fact that many government officials label[led] this as 'inefficient' land use.

(iv) The above two points link closely with another claim, not underlined in the previous chapters. Violence in Colombia, past and present, is intertwined in complex ways with the property regime. As indicated by Blomley (2008), it is usually assumed that 'the poor' constitute the greatest threat to stable property rules (p. 125), but in Colombia the landed elite set the precedent. Their disregard for the law can be traced back to the colonial era, though arguably the decisive period was the late 19<sup>th</sup> to early 20<sup>th</sup> century. The landowning class simply refused to recognise norms protecting peasant settlers' land rights. The peasantry began to mobilise around the spuriousness of the elite's land claims; they knew much of the area controlled by the haciendas didn't have legal title. The State only perpetuated the problem: various policies implicitly and explicitly endorsed illicit land accumulation. Later peasant land occupations, such as those organised by the ANUC in early 1970s, must be understood in this context of past processes of dispossession. Subsequent chapters show this to be an ongoing cycle in Colombia.

(v) Finally, this chapter illustrates the importance of closely examining the drivers, motivations and outcomes of land dispossession and associated displacement, which are varied and changing. It reiterates the argument that we cannot just assume such processes contribute to economic development. It also shows that concepts such as primitive accumulation are useful analytical tools in that they can be used to compare and contrast, but that they should not be applied blindly. I believe these points are explained and explicitly linked to the empirical detail in other parts of the chapter, so that a detailed recapitulation is not required here.

## Contextualising land dispossession in contemporary Colombia

As outlined in the previous chapter, the political economy of dispossession in Colombia began to shift around the 1930s/1940s. On the one hand, the *hacendados* became more concerned with defending their existing land claims against rebellious peasants than with extending them to retain/acquire a labour force. They started evicting *campesinos*, thus inverting the historical tendency of using extra-economic force to tie the direct producers to the large estates. On the other hand, the labour scarcity 'problem' dissipated as the population grew and modern agribusiness superseded the traditional hacienda system. Meanwhile, dispossession driven by interest in the land itself and related resources (rather than labour control) became more common with the advent of the oil industry and the advance of capitalist farming. The State, for its part, started to actively promote industrial agriculture. This model of development generated multiple problems, which the government attempted to curtail with redistributive reform in the 1960s. These efforts, however, were quickly stunted. The 1972 Pact of Chicoral between large landowners and the political establishment represented a blow to the prospect of a 'peasant path', which had seemed attainable at the beginning of the century.

Agrarian counter-reform was consolidated in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries as a new phase of dispossession set in. This and the subsequent chapters describe and analyse this most recent phase, which represents both continuity and change compared to the previous period. Colombia now has one of the most unequal land distributions in the world (Moloney, 2016). Land concentration increased over the last three decades<sup>81</sup>. In contrast to the ambiguous distributional outcomes of the mid-century civil war, the contemporary conflict unequivocally facilitated the transfer of land to elite groups. However, violence was not the only enabling factor behind recent land accumulation. The mere existence of war cannot account for the prevalence and character of dispossession – to truly understand, we must look to the broader political economy, as shown throughout this thesis.

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<sup>81</sup> According to one estimate, Colombia's land GINI increased from 0.849 in 1985 to 0.86 in 2010 (Contraloría, 2013, p. 48). A calculation that takes into account the accumulation of more than one property by the same person/company shows the GINI increased from 0.877 in 2000 to 0.891 in 2010 (*ibid*). The figure could be higher since the latter does not account for *testaferrato*, where a person disguises their property by getting someone else (the *testaferro*) to appear as the titleholder.

This chapter presents the broad context necessary for understanding the political economy of dispossession -both 'legal' and 'illegal'- in contemporary Colombia. It pays particular attention to the country's specific trajectory and policies of economic development (plus related power-dynamics and conflicts), which I argue have fundamentally shaped dispossession and associated displacement. My emphasis contrasts with accounts of land grabbing in Colombia that focus almost exclusively on the armed conflict and mainstream explanations more broadly that focus on the deficiencies of property rights institutions and the rule of law *or* present dispossession as an act imposed by the government for the public good.

The chapter begins by describing Colombia's economic liberalisation, which contributed to the relative decline of domestic agricultural and manufacturing sectors. Meanwhile, mining and oil extraction acquired increasing weight in the economy, in terms of foreign exchange earnings and government income. The growing reliance on these industries, partially an upshot of export-oriented growth strategies, has had implications for the State's land use priorities and dispossession/displacement, as discussed below and Chapter 8. This first section also briefly mentions the market-led land loss associated with economic restructuring and how the Colombian 'experience' compares with broader narratives about the relationship between neoliberal globalisation and dispossession.

Section two examines the rise of the illicit drug economy and how this shaped violent conflict and the political economy of land in Colombia. It suggests that the expansion of coca cultivation is closely linked to the country's specific trajectory of agrarian change, including historical processes of dispossession and displacement. It also briefly discusses the narco land rush, which I argue should be distinguished from the paramilitary land grab. In addition, this section refers to the displacements caused by the 'War on Drugs', an issue analysed further in the report I wrote on the Putumayo region, where many inhabitants insist that militarised counternarcotics policies are part of a wider land clearance strategy.

The third section offers a basic overview of the contemporary armed conflict. My aim is limited to providing background for subsequent discussions. I emphasise, in particular, the expansion of paramilitary groups, which worked in collaboration with government forces, were formed, funded and backed by diverse elites, and mostly targeted civilians deemed 'subversive'. I also discuss the transformation of paramilitarism following the demobilisation process in the mid-2000s. These points are key for understanding the parallel land grab and the repression of resistance to State-backed investments. Put simply: the paramilitaries helped preserve and advance Colombia's elite-led development model.

Section four surveys some key elements of contemporary land legislation introduced under Law 160 of 1994 and the 1991 Constitution that inspired it. The discussion indicates that the relationship between law and dispossession is not straightforward, as is sometimes implied (see Chapter 2); for example, the same specific norm may simultaneously enable and hinder such processes. Nonetheless, I suggest that, *overall*, the laws passed in the early 1990s introduced new rules and strengthened existing ones that should, theoretically, have prevented and limited dispossession. The fact that they failed to do so in many instances cannot be blamed simply on a 'weak rule of law', as shown in later sections and chapters.

The fifth section reviews numerous policies and laws introduced in the early 21<sup>st</sup> century, designed to promote agricultural exports and industrial farming, and that complement different forms of dispossession. It focuses on what I call the legislative counter-reform offensive: various attempts to rescind those norms contained in the 1994 Law, which are meant to favour the *campesino* population. This offensive includes proposals to 'forgive and forget' historical violations of Colombia's land laws. The section ends with a mini illustrative case study of the recent land rush in the *Altillanura* region.

Section six reviews the specific 'regime' of State-backed dispossession that sustains Colombia's mining and oil industries. It provides an overview of the various legal mechanisms used to impose these operations, which in practice overlap with the violent conflict, as shown in Chapter 8. This is followed by an examination of recent struggles between citizens' groups, local/regional authorities and various central government entities. Here I provide further evidence of the mining and energy sectors' reliance on extra-economic coercion, but also indicate the contradictions and conflicts that arise from the State's role in facilitating capital accumulation. The section ends with a brief discussion of how trade and investment treaties may influence these struggles by pushing the central government to violate its own laws and to dispossess and displace its citizens on behalf of international investors.

### **1) Colombia's 'economic restructuring' and implications for land dispossession**

In the mid-1970s the Colombian government initiated a shift away from the ISI-type policies that had defined the last three decades. It began to withdraw subsidies, financial sector regulations, and trade barriers previously used to promote and protect select national industries. While some interventionist and protectionist measures were reintroduced in the wake of the 1982 economic crisis, the government soon returned to its liberalisation

program. This was extended in the early 1990s under a set of policies, known as the ‘economic opening’, which included additional reductions in tariff and non-tariff barriers, the privatisation of diverse public entities, a further relaxing of restrictions on foreign investment, financial sector deregulations, and an overall loosening of capital and currency controls (Ocampo, 1996b; see also Ocampo et al., 1996; Kalmanovitz & López, 2006).

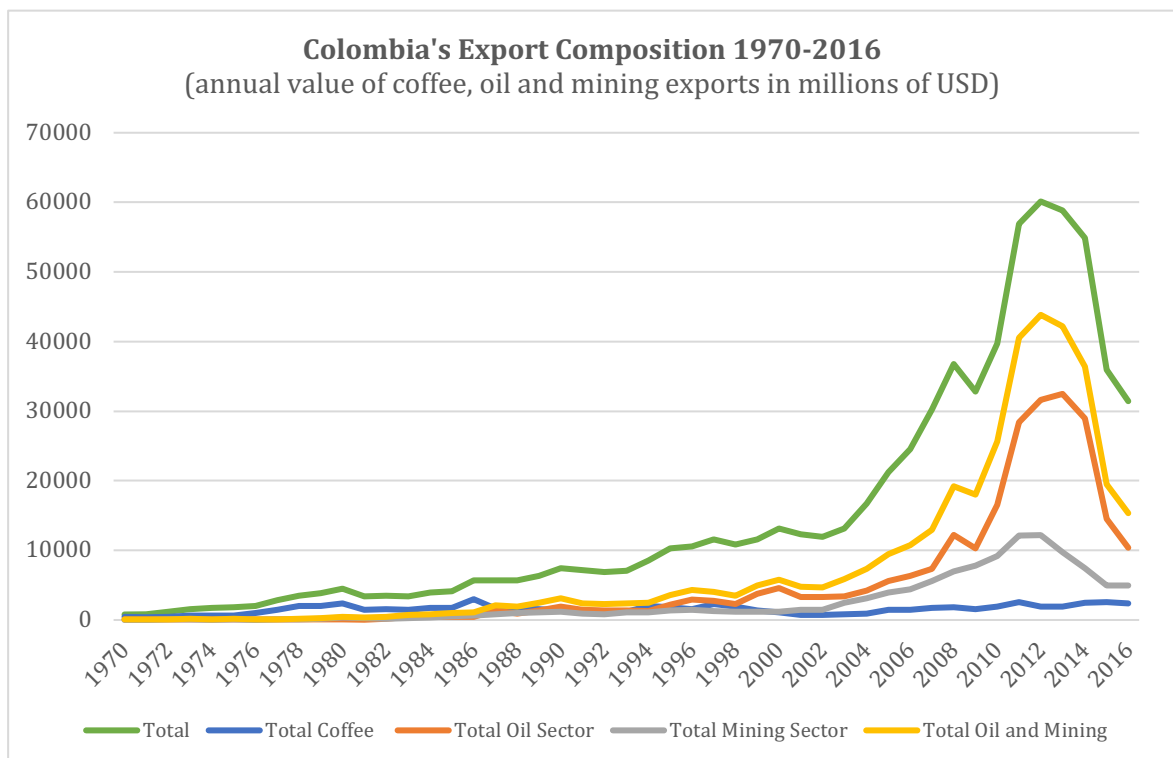
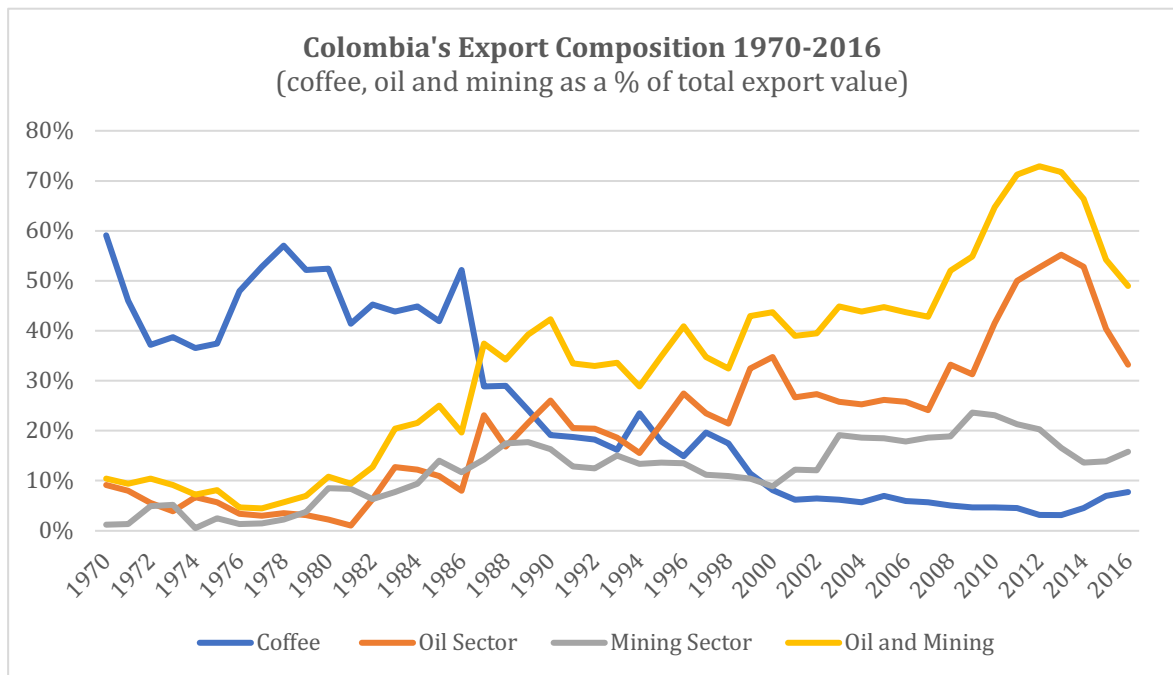
This period of reform contributed to important macro-economic changes. Construction, services and mining-energy acquired increasing weight in the economy, as agriculture and manufacturing entered into relative decline<sup>82</sup>. According to Clavijo, Vera and Fandiño (2012), “deindustrialisation” in Colombia is closely tied to the mining-energy boom, driven by rising global commodity prices. Though these sectors represent a comparatively small proportion of Colombia’s GDP, they have become an important source of foreign exchange earnings and government income. As illustrated in Figure 4, petroleum and its derivatives went from representing 5% of total annual export value on average during the 1970s to 29% between 2000 and 2010, while the mining sector’s participation increased from an average of 2% to 19% over the same period (my own calculations based on data supplied by government agencies: DANE, 2014, 2017; UPME, 2014a).

In 2012, around the height of the most recent boom, mining and hydrocarbons combined represented almost *three-quarters* of total annual export values (UPME, 2014a, p. 12) and more than 80% of foreign direct investment in Colombia (Mincomercio, 2014). Between 2010 and 2013 the mining and energy sectors accounted for 11.2% of total GDP and -in the latter year- 32% of State income (DNP, 2015, p. 135). In the context of neoliberal globalisation, export growth has become even more imperative (consider, for example, the implications of Colombia’s mounting reliance on food imports); arguably, this has exacerbated the government’s drive to expand these extractive industries (reflected in its land use priorities and related laws and policies, which permit coercion to be used to this end) in order to secure the foreign exchange required to keep the economy running. As discussed later, the growing importance of these sectors has markedly shaped dispossession and displacement in Colombia in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries.

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<sup>82</sup> Agricultural value added as a per cent of GDP dropped from circa 24% in 1975 to 15% in 1995 to just below 7% in 2015. The figures for manufacturing reveal a drop from around 24% to 16% to 12% over the same time period (World Bank, 2017b). Relative employment in both sectors also fell, from 29% (agriculture) and 25% (industry) to 19% and 13% (respectively) between the late-1970s and the mid-2000s (Clavijo, Vera, & Fandiño, 2012, p. 40).

**Figures 4 & 5 – The mining and oil sectors in Colombia's export composition**



Note: the data only covers **coal, nickel, gold and emeralds** for the mining sector and the latter two (gold and emeralds) are not included for the years 2014-2016, as the data was not available. The oil sector includes “petroleum and derivatives”.

Graphs elaborated by the author using data from Colombia's [National Department of Planning](#) (DNP) for the period 1970-2005 and from the [National Department of Statistics](#) (DANE) and the [National Mining and Energy Planning Unit](#) (UPME) for the 2006-2016 period.

The shift away from ISI strategies also had huge repercussions for the agricultural sector. The Colombian landscape was transformed as certain crops ceased to be profitable following the withdrawal of protectionist policies (Ocampo et al., 1996; Ocampo, 1996b). The appreciation of the peso -associated with the mining and energy boom- also negatively affected the agricultural sector by making imports cheaper and exports less competitive (Zerda Sarmiento, 2015, p. 18). Imports of food and primary agricultural goods increased almost fivefold between 1991 and 1997, rising from circa 1.25 million to over 5 million tonnes annually (Tovar Martinez, 1997). Evidence suggests that rural upper classes, who had been the primary beneficiaries of ISI policies, lost most in economic terms due to the reforms, compared to other groups (Balcázar, 2008, pp. 139–140). However, the lifting of import barriers affected farmers of all types and sizes (Suárez Montoya, 2015) and large producers were soon provided with new subsidies and support, as discussed below.

The rise in rural unemployment in the early 1990s and opposition to free market policies pushed the government to reintroduce protections for certain agricultural products (Balcázar, 2008, pp. 134–135; Ocampo, 1996). However, mostly, these were reduced once again as various free trade agreements entered into force, in particular with the USA and the European Union in 2012 and 2013 respectively. By 2015 Colombia was importing more than 28% of its food and primary agricultural goods or circa 10.3 million tonnes per year (García Sierra, 2015) – double the 1997 figure above. Farmers across Colombia struggle to compete with cheap and often subsidised imports (Suárez Montoya, 2015). They risk losing their land through market-mechanisms of dispossession, such as bank foreclosure or distress sales. A study on land markets in Colombia -published by the World Bank- reports that 47% of people included in the sample “who sold land in the 1994-99 period” did so to pay off debts (Deininger, Castagnini, & González, 2004, p. 15). A dairy and potato farmer from Boyacá explained: “We are not displaced because of the violence, but because of the economy” (cited in Suárez Montoya, 2015, p. 66).

While large and small agricultural producers alike suffer economic pressures, the latter are more vulnerable to market-led dispossession, in part because they are less likely to receive State support. On the whole, the Colombian government has continued to provide backing for large-scale agriculture - though the scale, scope and focus of policy has changed in particular towards promoting export crops. As shown in the subsequent chapter, these same policies also facilitate and incentivise violent land grabs. Overall, Colombian farmers -especially *campesinos*- have faced a triple threat of dispossession and displacement during the neoliberal era: land loss driven by economic factors, plus the exodus imposed by armed



groups and usurpation at the hands of paramilitaries and allied elites, as well as forced relocations and coerced property transfers (backed by the State's taking powers) to make way for mining and energy projects.

Much has been written about the general connections (i.e. beyond the Colombian context) between dispossession/displacement on the one hand; and neoliberal reform and globalisation on the other. Akram Lodhi, for example, put forward the notion of "neoliberal enclosures", which he argues "facilitate a market-led appropriation of land" especially in areas not yet "fully colonised by capital" (Akram-Lodhi, 2007, p. 1446). This is achieved through "neoliberal agrarian restructuring", which includes an array of policies such as: trade liberalisation, the deregulation of agricultural markets, the privatisation or withdrawal of rural services, the dismantling of State-backed land reforms, and their replacement by titling and other programs aimed at building land markets (Akram-Lodhi et al., 2009). Similarly, Araghi (2009) argues that peasants across the Global South are being forced from their land, in particular due to policies that oblige them to compete with subsidised producers from the Global North, combined with a "withdrawal from the agrarian welfare state" (p. 131). He calls neoliberal globalisation "the storm that is depeasantizing the Earth's population" (Araghi, 2009, p. 112).

Some elements of the above narrative describe what has been happening in Colombia quite accurately; others do not. The import of cheap food goods set in motion market-mechanisms of dispossession, which mostly affect small farmers. However, other aspects of neoliberal restructuring mainly impacted large landowners, who were the principle beneficiaries of Colombia's 'agrarian welfare state'. In terms of land reform, the rollback in Colombia began with the Pact of Chicoral in 1972, before neoliberalism had taken off. The government then passed a new agrarian law in 1994, discussed below. Some elements of this legislation are quintessentially neoliberal, such as the market-led land redistribution program; but others, including diverse restrictions that apply to reform lands, are inimical to free market ideology. The government started to reverse these regulations just over a decade later and is still -as I write- amidst this legislative counter-reform. Finally, in the case of Colombia, dispossession due to the expansion of the mining and oil industries and the intensification of the armed conflict has -up to a point- overshadowed market-led land loss.

## 2) Coca farming, the 'War on Drugs' and the narco land rush

The decline of the legal agricultural and manufacturing industries was conducive to the rise of the illicit drug economy in Colombia. The business took off in the 1970s, shortly after US president Nixon declared the ill-conceived 'War on Drugs' and just as economic restructuring in Colombia began. Marijuana served as the commercial stepping-stone. By the 1990s, the country's illicit drug economy had diversified into cocaine and to a lesser extent heroin (Sáenz Rovner, 2016; Molano Bravo, 2015; Thoumi, 2002).

Initially, Colombian businesses processed and trafficked cocaine produced from coca paste imported from Peru and Bolivia. But domestic coca cultivation proliferated steadily and by the late 1990s Colombia had more coca crops than any other country in the world (Thoumi, 2002). Coca is predominantly (though not exclusively) grown in southern 'colonisation zones'. Settlement in these areas increased significantly during *La Violencia* and continued in the 1960s and 1970s in part thanks to the failures of distributive land reform. In many of these zones, soil types and climate pose limitations for agricultural production; infrastructure and basic public services are poor or non-existent; and the cost of transporting bulky low-value produce, even to regional/local markets, is prohibitively high. This, combined with years of policy-bias towards large-scale farming, limited support for the *colonos*, and the import of cheap goods following the 'economic opening' contributed to a situation in which coca was the only viable commercial crop for many peasant settlers.

Narcotraffickers effectively brought the market to Colombia's furthest flung agricultural frontiers. They established processing laboratories and transport routes (often using private air strips), generating demand for a high-value crop that is durable and -once processed- relatively compact. Hence, coca cultivation offered peasant settlers a tool of survival amidst adverse structural conditions arising from the country's trajectory of agrarian change and chosen development strategies. Sociologist and journalist Alfredo Molano (2015) sums up: "For the *colonos* illicit cultivations represented the incarnation of their dreams and the demands they had made to the State: access to markets, credit, roads, health, education, diversion. In a short time, they emerged from bankruptcy and were integrated into the world of consumption" (p. 193). It should be said, however, that small coca farmers -who receive on average just 1% of total revenues from the cocaine trade (OAS, 2013, p. 19)- derive comparatively modest benefits from the business. Still, the opportunities afforded by the coca boom combined with on-going forced displacement contributed to further population growth in the colonisation zones (Gutiérrez Sanín, 2015b, pp. 14-16).

These same regions in southern Colombia were also the traditional strongholds of the FARC rebels. Initially, the guerrilla mostly opposed the illicit drugs industry. In some areas, the FARC had attempted to convince peasants to stop cultivating coca and even burnt down cocaine laboratories. However, they were unable to offer their support base (actual and potential) an alternative source of income. Presumably they also foresaw the advantages of using the illicit business to fund the insurgency. Hence, the FARC soon shifted its strategy and began to regulate and tax the drug trade. This included forcing the narcotraffickers to make minimum payments to the small coca farmers, which fortified the guerrilla's legitimacy among many settlers (CNMH, 2012a; Molano, 1989; Semana, 1989b).

Whether the FARC were attacking the illicit drugs business or taxing and regulating it, they were interfering with the narcotraffickers' profits. At the same time, many drug barons were, or had become, large landowners - the typical targets of guerrilla extortion. This combined with other factors and events led the narcos (led in particular by Rodríguez Gacha, alias El Mexicano) to join the army's war against the guerrillas and civilians accused of supporting the insurgency (CNMH, 2012a; Semana, 1989b).

Initially, the Colombian government almost openly 'tolerated' the illicit drug industry (Reyes Posada, 2009, pp. 4-5; see also Sáenz Rovner, 2016). This started to change with pressure from the US government and as violence began to permeate all corners of society. Conflict between the Medellín and Cali 'Cartels' escalated and the Medellín narcos launched a violent campaign against the government's extradition agreement with the USA. They put bombs in passenger aircrafts, press offices and State buildings; and sent their hit men after journalists, judges, police and other government functionaries. The break-up of the Cartels in the 1980s and 1990s led to a dispersion of the business into hundreds of smaller firms - many of them with links to paramilitary groups, which were engaged in counterinsurgency warfare alongside government forces (Reyes Posada, 2009, pp. 5-6 and 87-88). Hence, historically, at least, the 'War on Drugs' in Colombia has been fairly selective.

The main victims of this 'War' have been the *campesinos* who live in coca-growing regions. In addition to being targeted by counterinsurgency operations from which militarised counter-narcotics campaigns are sometimes indistinguishable, an unknown number of people have been forcibly displaced<sup>83</sup> and/or left destitute by the State's aerial

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<sup>83</sup> It is difficult to gauge the scale of the tragedy since the government, it seems, does not accept this as a 'legitimate' cause of displacement. Inhabitants of the Amazon Pearl PRZ report that many families left destitute by the spraying were advised to claim the guerrilla uprooted them in order to receive the humanitarian aid that they so desperately needed (Personal Interviews, 2015).

fumigation campaigns. In addition to loss of subsistence crops, many farmers face loans they cannot pay off because their commercial -including *licit*- cultivations were destroyed by the spraying (Personal Interviews, 2015). As outlined by Molano (2015), aerial fumigations helped incite some of the largest peasant protests/blockades in Colombian history.

In Putumayo, aerial fumigations have also facilitated the occupation of surrounding lands by oil companies, adding to resentment towards the State. This is how someone from Jerusalén-San Luis in Villagarzón put it: “they fumigate everything one has, food, everything. [...] the State itself does that so that the civilian population, the indigenous people, start to leave their territories” (Personal Interview, 2015). Another person from Kwe’sx Nasa Çxayu’çe in Puerto Caicedo explained: “The government is fumigating our territories [...] to see if it can clear out our territory through hunger, because they are fumigating all our subsistence crops [...] There is no coca in my community. We are 17 families in 2015, we used to be 27 families. The other 10 families have left, displaced” (Personal Interview, 2015). Many people from different parts of Putumayo expressed the view that fumigations are linked to oil interests (see also testimonies from North Santander in IDMC, 2007, p. 51). Whatever the intentions, aerial spraying has certainly caused displacement and destitution that weakens people’s ability to resist the imposition of oil operations in their lands.

While small coca farmers and narco kingpins -and to a lesser extent coca pickers or *raspachines*, jungle chemists and hired guns- tend to receive the brunt of media attention, the reality is that the illegal drug industry depends on diverse participants (e.g. government officials, pilots, lawyers, accountants, etc.) reaching across the social strata including the upper echelons, where a significant portion of Colombia’s drug profits actually end up (Sáenz Rovner, 2016; Reyes Posada, 2009; Thoumi, 2002).

Drug money fuelled an unprecedented “real estate boom” in urban and rural areas (Thoumi, 2002, p. 110). This, combined with a tax regime that encourages speculative property accumulation, pushed up farmland prices. In some regions, prices reached levels “significantly above the net present value of profits from agricultural production” (Deininger et al., 2004, p. 3). Indeed, according to Reyes (2009), the narco land rush exacerbated agricultural sector stagnation by pushing rural property prices above their productive value and consolidating the use of fertile terrains for extensive cattle ranching (pp. 74-77). Though Reyes’ emphasis on the links between drug money and speculative land acquisition is justified, it should be said that profits from this illicit business have also been funnelled into ‘productive’ ventures, such as the establishment of oil palm monocrops (Ballvé, 2013; Grajales, 2013).

Farmland acquisition has served narco-elites, in particular, in at least four ways: it allowed them to launder drug money (via the land purchase itself and the licit businesses set up on that land), store and accumulate wealth, control key trafficking corridors, and better accommodate infrastructure (e.g. cocaine laboratories and private air bases) for their illicit ventures. The narcotraffickers “reinforced and generalised” the established practice of using private armed groups to defend landed property, leading to a further weakening of peasant struggles in some regions (Reyes Posada, 2009, p. 80).

It is important to distinguish between the narco land rush briefly discussed here and the para-elite land grab, examined in more detail in the subsequent chapter (see also Gutiérrez Sanín & Vargas Reina, 2016; Reyes Posada, 2009). I use the term ‘narco land rush’ to refer to the rise in rural property acquisition by narcotraffickers. This was certainly associated with coercive dispossession in some regions and at certain periods of time, but this was/is not always the case. And, as implied by Gutiérrez and Vargas (2016), an overemphasis on the role “illegal elites” in coercive dispossession can obscure the participation of “legal elites”, which in turn may perpetuate oversimplified narratives that reduce the phenomenon to a problem of the criminal underworld.

In fact, Gutiérrez and Vargas (2016) argue that narcotraffickers “were only involved in practices of dispossession under very special conditions” (p. 3; for details see pp. 25-26). And, according to Reyes (2009), historically at least, narcotraffickers mostly *purchased* land from *large* property owners; in particular those who wished to withdraw from areas where their physical and financial security were under threat from the guerrillas. The narcos were awash with money they were eager to legalise and hence were often willing to pay exorbitant prices (pp. 73-74). This type of land acquisition was particularly common during the 1980s. In contrast, the dispossession imposed by the para-elite mostly affected smallholders, who were usually given a pittance -if anything at all- for land that was taken from them by force. This phenomenon didn’t truly take off until the 1990s. Paramilitary commander, alias Doble Cero, himself observed the differences between the narcos’ purchase of land from elites at “inflated prices” during the 1980s and the acquisition of land from the displaced by “unscrupulous AUC members” in the decades that followed (cited in CNMH, 2012c, p. 93).

Nevertheless, this distinction between the narco land rush and the para-elite land grab, while conceptually relevant, has limitations. On the one hand, even if -as Reyes suggests- the acquisition of large properties via purchase at high prices predominated in the 1980s, narcotraffickers (some of who were involved in counterinsurgency warfare)

certainly also acquired smallholdings during this period and used violence or threats to force *at least some* land sales. On the other hand, many paramilitary groups were/are involved in the illicit drug business and many cases of paramilitary-led usurpation were/are also clearly connected with narcotrafficking interests – (e.g.) drug money was laundered via licit businesses set up on stolen land and dispossession was sometimes aimed at controlling key trafficking corridors, setting up coca cultivations and better accommodating infrastructure for illicit drugs ventures.

### **3) The intensification and ‘paramilitarisation’ of the armed conflict**

Between the 1970s and 1980s multiple factors coalesced, giving way to a new phase of violence in Colombia, which intensified in the 1990s and early 2000s. By the new century, Colombia had the largest internally displaced population in the world, more land mines than any other country except Afghanistan, was considered the most dangerous place on earth to be a trade unionist and had seen an entire political party (the left-wing UP<sup>84</sup>) liquidated in what has been recognised as a ‘political genocide’. In the pages that follow, I do not attempt to provide a full explanation of Colombia’s armed conflict. Instead, I aim to give a basic overview and to highlight some key dynamics vital for understanding the latest phase of dispossession in Colombia.

The government’s decision to block land reform and its de facto criminalisation of unionism<sup>85</sup>, plus the use of military force to repress rural and urban protests, lent legitimacy to the various rebel groups. A number of authors suggest there is a direct link between the closing down of reformist channels and the violent repression of non-armed social movements on the one hand, and the strengthening of the armed insurgency on the other (Molano Bravo, 2015, p. 192; Reyes Posada, 2009, pp. 2–3 and 29–30; for a slightly different version of this thesis, see Gutiérrez Sanín, 2015, pp. 10–11). There were at least six different guerrilla groups in operation in the 1980s. Four of them (the M-19, the EPL, the Quintín Lame Armed Movement and the Revolutionary Workers’ Party) demobilised between 1990 and 1991, leaving the two oldest and largest guerrilla groups: the ELN and the FARC.

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<sup>84</sup> Paramilitaries and government forces killed around 4,000 members and supporters of the UP (*Unión Patriótica* or Patriotic Union) party in less than a decade, including 2 presidential candidates, 7 congress members, 70 councillors, and 11 mayors. The party had considerable success in general and local elections in 1986 and 1988 respectively (Ávila, 2016; Urrego Mesa, 2004).

<sup>85</sup> Under López Michelsen (1974–1978), “all strikes were declared illegal. The policy of harassment and repression was extended to the Liberal and Conservative unions as well” (Zamosc, 1986, p. 124).

By the late 1980s the ELN had become a fully-fledged guerrilla army. Its military strengthening was facilitated by extortion payments from the burgeoning oil industry, which became one of the main targets of its attacks and a focal point of the group's social /political program (FIP, 2015). The ELN acquired significant support, especially in the northeast of the country where it acted as an advocate for peasant settlers and oil workers (Reyes Posada, 2009, pp. 65–66). The organisation had circa 4,000 fighters by the end of the 1990s; this number had fallen significantly (to an estimated 1,500 combatants) by the 2010s (El Tiempo, 2012c). As of 2017, the ELN was engaged in peace talks with the Colombian government.

Meanwhile, the FARC had also begun to multiply its fronts and extend its control. By the 1990s it had presence in approximately 700 of the country's 1,098 municipalities. This expansion was partially financed through the organisations' taxation of the illicit drug trade; their involvement in the business appears to have increased overtime, though this remains a contested issue. The FARC became the most 'effective' of the guerrilla groups in military terms, but many analysts suggest that its success as an armed actor had negative consequences for its social/political legitimacy. Still, the FARC retained sympathies with segments of the civilian population and was able to continually recruit new members. At its height in 2002, the FARC had an estimated 17,000 full time fighters and 13,000 militia members (Gutiérrez Sanín, 2015b, pp. 17–18, 27–30; Reyes Posada, 2009, pp. 57–58). By the time of their disarmament in 2017, membership had fallen to circa 7,000 fighters and 1,500 militias (Marulanda Rendón, 2017).

Government armed forces, politicians and elite groups were the guerrillas' main targets. Police and military were killed in assaults and held as 'prisoners of war'; government functionaries and other notables faced death threats and were taken as political hostages; and large landowners, cattle-ranchers, business representatives, among others, were subject to extortion and financially-motivated abductions. In many regions, elite groups also felt threatened by land occupations, union movements, and the growing popularity of left-wing political parties – in particular the UP (see footnote above). These factors combined led an assortment of individuals to organise and fund paramilitary groups.

Private armed groups, in particular those directed by elites, have a long history in Colombia. Throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries the traditional landowning class used personal squadrons or hired guns to defend and extend their land claims and for diverse political ends. The arming and mobilisation of *campesinos* by the landed elite was a defining characteristic of *La Violencia*. The military, for its part, involved civilians in

counterinsurgency warfare since it was launched in the 1950s. This strategy was bolstered by the US government (which endorsed and provided advice on the use of civilian self-defence forces – see Stokes, 2003) and legalised through Decree 3398 of 1965 and Law 48 of 1968. The latter was repealed in 1989 (CAJAR, 2006), but later laws also sanctioned the paramilitary expansion<sup>86</sup>. As explained by Gutiérrez (2015), the paramilitaries were “semi-legal” armed groups (p. 136).

According to Reyes (2009), the military started actively organising anti-subversive militias during the Turbay Ayala (1978-1982) administration and continued their efforts during Betancur’s presidency (1982-1986), calling on regional elites to provide financial backing for these groups. The army used the incipient paramilitary forces to circumvent a ceasefire declared during the Betancur administration’s efforts to negotiate with various guerrilla groups (see also Stokes, 2005, pp. 71–78; CNMH, 2015b, p. 66).

Henceforth, an assortment of local and regional right-wing armed groups proliferated across the country. A handful originated in the army’s counter-insurgency project, while many were formed independently of the military, but quickly gained their blessing. Some were founded and controlled by drug barons from the beginning; others were taken over by the narcos or got involved in the business later-on. Military capacity and political/ideological training also diverged widely between groups. Despite this diversity, they had two things in common: they actively participated in counterinsurgency warfare (which mainly involved assassinating, disappearing or displacing civilians accused of supporting guerrilla groups or organisations deemed subversive) and for that reason were tolerated or even directly supported by the government Armed Forces (Gutiérrez Sanín & Vargas Reina, 2016, pp. 5–6; Reyes Posada, 2009, pp. 82, 95, 100).

It should be stressed that counterinsurgency (CI) has been as much a political, economic and social undertaking, as a military mission. Since the 1950s, the Colombian army has been inculcated with CI doctrine that defines ‘the enemy’ broadly, so as to include civilians considered to subversive, including left-wing politicians, trade unionists, critical journalists and teachers, environmentalists, and members of peasant and indigenous movements or any other organisations demanding substantial social, political and/or economic change (Stokes, 2003, 2005, pp. 60–78). This CI logic was also imprinted upon

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<sup>86</sup> The Gaviria (1990-1994) and Samper (1994-1998) administrations legalised private ‘security cooperatives’, known as CONVIVIR, which were used by paramilitary groups for acquiring funds and weapons and, in some areas, were inseparable from them (CAJAR, 2006).



their paramilitary allies (often trained by the military or commanded by ex-army officials) and squared well with the demands of the elites who were bankrolling them. This is one key reason most people who died in the Colombian conflict have been civilians and also helps explain why more people were killed in massacres and selective assassination campaigns - the majority of which were carried out by paramilitary groups- than as a result of combat<sup>87</sup>.

The paramilitaries' contributors and backers included not just local/regional elites, but also central government functionaries and politicians, as well as national and multinational firms. Hundreds of people have been implicated in 'para-politics' related crimes. In 2005, paramilitary chief Vicente Castaño boasted that more than 35% of congress were "friends" of the AUC (Verdad Abierta, 2013a). Likewise, dozens of firms funded, and in some cases directly collaborated with, the paramilitaries (see e.g. W Radio, 2016); perhaps the most notorious example is Chiquita Brands (see e.g. ["The Chiquita Papers"](#)). While some companies also paid money to guerrilla groups, this was usually under threat rather than out of interest; the paramilitaries, in contrast to the insurgents, acted as champions of elite-led development. In an open letter to Congress, paramilitary leader Carlos Castaño stated: "we are the defenders of business freedom [...] Why shouldn't national and international companies support us when they see their investments limited by the terrorism and barbarity of the guerrillas [...?]" (The New York Times, 2000). A detailed discussion of 'para-politics' and 'para-economics' is beyond the scope of this thesis; however, relevant aspects of both are considered in chapters 7 and 8.

Between 1996 and 1997, various paramilitary groups joined together under an umbrella organisation known as the United Self-Defence Forces of Colombia (*Autodefensas Unidas de Colombia*) or AUC - although it should be noted that the latter was highly 'decentralised' and regional/local differences persisted (Gutiérrez Sanín & Vargas Reina, 2016, p. 6; Reyes Posada, 2009, pp. 101–102). The continued "expansion of the paramilitary groups was almost openly sponsored by the Armed Forces in reaction to the [new] peace process" led by the Pastrana administration (Reyes Posada, 2009, p. 62).

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<sup>87</sup> Here I draw on data provided by the National Centre for Historical Memory. They estimate 81% of circa 220,000 people killed during the conflict were civilians. More than 11,700 people were killed in massacres between 1985 and 2012. Another 23,150 people were victims of selective assassinations and 25,000 more were forcibly disappeared during a similar time period. In comparison, 1,344 deaths were linked to armed confrontations, 218 due to "attacks on civilian property", 223 due to "terrorist attacks" and 2,119 due to landmines - between 1988 and 2012 (CNMH, 2012b). These figures are indicative. However, it should be acknowledged that conflict data is often inaccurate (for a discussion, see Gutiérrez Sanín, 2015, pp. 35–37) and varies across sources.

Meanwhile, President Pastrana (1998-2002) was negotiating an assistance package with the US government, which was approved in the year 2000, making Colombia the third largest recipient of US military aid (Stokes, 2003, p. 577). The Colombian Armed Forces were already receiving support from the US, but Plan Colombia -as the package was dubbed- permitted a huge boost in military operations. The conflict intensified in the years that followed: homicide and forcible disappearance reached a peak between 2000 and 2004, while forced displacement exploded between 2000 and 2008 (RUV, 2017).

Officially, Plan Colombia was a centrepiece of the US War on Drugs and -later- the War on Terror. However, it was much more about wresting power from the FARC and ELN guerrillas and weakening “unarmed progressive social forces that threaten a stability geared towards US interests” (Stokes, 2005, p. 3), especially in oil resources<sup>88</sup>. As highlighted by Doug Stokes, it is difficult to defend the notion that the aim was to defeat drugs and terrorism when the US was “actually sponsoring the principal drug-funded terrorists [i.e. the paramilitaries] in Colombia” (p. 3) through its support for the Army. Declassified documents reveal that the US government was aware of this situation before it stepped up provisions and training through Plan Colombia. A CIA Report from 1997 states, for example: “instances of active coordination between military and paramilitaries are likely to continue”; the same report notes that funding for these groups comes from “wealthy businessmen, including drug traffickers” and that “victims of paramilitary violence are most commonly unarmed civilians” (The National Security Archive, 2002).

Plan Colombia suited Pastrana’s successor Álvaro Uribe Vélez (2002-2010) who, in the wake of frustrations with the failed peace process, promised to defeat the guerrilla by force. Under Uribe’s leadership and with the help of the US, the State built up its military, which grew from 5 divisions with 18 brigades in 2000 to 8 divisions with 31 brigades in 2012 (CNMH, 2012a, p. 61). This included the creation of special battalions “dedicated to the security of the mining-energy, hydrocarbons and transport sectors” (Mindefensa, 2015), which facilitated the imposition of large-scale investments and associated dispossession (this is discussed in detail in the report I wrote on oil operations in Putumayo).

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<sup>88</sup> Numerous US government functionaries overtly affirmed the importance of Colombia’s oil resources in their validation of the USA’s provision of military aid to the country and oil companies have channeled considerable sums into lobbying for increased US military spending in Colombia (Stokes, 2005, pp. 124–126 and 107; on the links between Plan Colombia and oil interests see also Gisbert & Pinto, 2014; I. Gómez, 2000; S. Gómez, 2002).

The army gained control over densely populated areas. They established checkpoints on the country's arterial highways, which had once been the site of the FARC's 'miraculous fishing' (kidnapping and extortion) operations. The guerrilla lost combatants through death, capture or desertion and were increasingly confined to relatively isolated areas. Overall, Uribe's 'Democratic Security Policy' led to substantial improvements for the middle and upper classes especially and in the 'central' regions in particular, which partially explains his popularity among the active electorate.

Things were different for those living in the country's warzones, who suffered not only the guerrilla's land mines, but also the government's bombs. For them, Democratic Security signified an intensification of the armed conflict. Practically the entire population of Putumayo, for example, was branded 'subversive'. In this region, the worst of the violence took place between 2000 and 2008, as the army and the paramilitaries stepped up efforts to wrest control from the FARC (CNMH, 2011, pp. 82–85; Personal Interviews, 2015). Their stories, especially those implicating government forces, rarely if ever made the news and are far removed from the lives of many fellow Colombians.

One of the most important feats attributed to Uribe's Democratic Security Policy was the individual demobilisation of thousands of guerrilla and paramilitary fighters and especially the collective formal demobilisation of the AUC. In 2003, paramilitary commanders signed the 'Santa Fe de Ralito Agreement', officialising negotiations with the government, which gave way to the demobilisation of more than 30,000 combatants (though it is thought that around half of the demobilised were fakes or impostors) by 2006 (Reyes Posada, 2009, pp. 129–134; Semana, 2011b). Nevertheless, the paramilitaries did not simply cease to exist, as the Uribe government claimed. Some paramilitary groups never demobilized to begin with, others rearmed under a different guise, and a few apparently new squads have formed. The official discourse calls these armed groups BACRIM (*bandas criminales*) or 'criminal gangs', which essentially depoliticises their actions and allows the demobilisation to be presented as successful.

According to one study, 70% of the territories that used to be controlled by the paramilitaries are now 'terrorised' by the BACRIM. More than 332,000 people on the government victims register (RUV) identified these 'criminal gangs' as their victimisers. This is likely to be an underestimation, given that many people were denied inclusion in the RUV precisely on the grounds that the government does not deem the BACRIM 'actors in the armed conflict' (Bohórquez Contreras, 2016).

The main justification for refusing to call these groups paramilitaries and denying their status as ‘actors in the armed conflict’ is that they apparently have not been involved in combat with insurgents and -according to some sources- have even formed alliances with them in certain regions (El Tiempo, 2016a). But counterinsurgency was never solely about combatting the guerrillas; since its inception paramilitary violence has been directed at *unarmed* social movements and individuals considered subversive. As noted above, civilians were the main victims of ‘traditional’ AUC warfare. In this sense, the BACRIM play a role similar to that of their predecessors (see Maher & Thomson, 2011). They assassinate unionists, intimidate those who resist the imposition of mining and oil projects in their territories and use violence to prevent people from reclaiming their usurped land or to advance new usurpations. Labels such as ‘neo’ or ‘new’ paramilitaries, ‘paramilitary successor groups’ and ‘post demobilisation forces’ serve to highlight this continuity, as well as the participation of former AUC members in these groups.

Those in favour of distinguishing the BACRIM from paramilitaries also point to differences in military capacity and the scale of bloodshed for which they are responsible (El Tiempo, 2016a). Government databases do suggest that indicators of violence (torture, homicide, forced disappearance, displacement, etc.) have declined since around the time of the demobilisation (RUV, 2017). But whether or not this is reason to castoff the paramilitary label is another question. People I interviewed in Putumayo insisted that BACRIM *are* paramilitaries even though the violence has changed. For example: an indigenous leader from Puerto Caicedo noted “the strength of the paramilitaries has diminished, but their descendants are still around [...] Mano Negra or Los Rastrojos, they changed their name, but they are the same”; another indigenous leader from Puerto Asís explained: “in the past it didn’t matter if the paramilitaries caught someone and chopped them up with a chainsaw or cut off their heads. Now it’s more hidden, but they are still doing it [killing people]” (Personal Interviews, 2015).

Finally, it is argued that the BACRIM should not be called paramilitaries because, unlike the AUC, they are in open conflict with the State (El Tiempo, 2016a). According to official sources, authorities captured 19,579 and killed 1,097 BACRIM members between 2007 and 2015 (cited in Fundación Paz y Reconciliación, 2016). On the whole, the relationship between the BACRIM and the State *is* different to that with the AUC. The former are not ‘semi-legal’ like the latter were. However, there is evidence of ties between these successor groups and military/police, as well as politicians and other government officials, in various parts of the country (HRW, 2013, pp. 172–173). As of 2014, prosecutors were

investigating “5,749 members of the public forces for alleged responsibility in grave human rights violations and links to criminal gangs” (Semana, 2014). And, as of 2016, government investigators, council members, mayors, at least one governor, among hundreds of others, were also under investigation for crimes related to these groups (El Universal, 2016b). Arguably, then, the demobilisation did not eliminate paramilitarism; it transformed it.

The armed conflict, briefly described in this section, enabled a new phase of agrarian counter-reform. The paramilitaries, allied with regional and local elites, used violence to procure lands mainly -though not exclusively- from smallholders. Others purchased plots abandoned during the violence (caused by the army, paramilitaries and guerrillas alike), often at fire-sale prices and from families who had little option but to give up their land in order to survive. State-lands cleared through displacement could be easily occupied, especially if the occupying firm had government endorsement. Constant violence limited communities’ ability to organise and resist the take-over of their lands. Vocal critics and opponents of large-investment projects were threatened, displaced, murdered, or forcibly disappeared. All of this will be discussed in more detail in the subsequent chapters.

#### **4) The 1991 Constitution and Agrarian Reform Law 160 of 1994**

Amidst macroeconomic reorganisation, a booming illicit drug economy and an intensification of the armed conflict, Colombia adopted a new Constitution and the government passed Law 160 of 1994 – its third gesture of agrarian reform in the 20<sup>th</sup> century. The Law, which at the time of writing is still in force, albeit with substantial modifications, contains a strange mixture of market-oriented policies (e.g. land redistribution based on voluntary negotiations<sup>89</sup>) and the type of regulations criticised by neoliberal scholars and policymakers. In part, this odd combination may be attributed to the variety of actors that influenced the legislation, including peasant organisations and the World Bank (Peña Huertas, Parada Hernández, & Zuleta Ríos, 2014, p. 142).

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<sup>89</sup> Colombia’s market-led land redistribution was a failure. After 7 years just 180,211 ha had been purchased through the program (Mondragón, 2006, p. 167). The properties were typically in marginal locations with poor infrastructure. And the price for land acquired through ‘voluntary negotiations’ tended to be higher than what was paid for properties obtained through the state-led approach (Borras, 2003, pp. 382–389). Furthermore, even though the loans people had to take out were smaller than they would have been under a strict application of the model (30% instead of 100% of the land costs), the debts proved unsustainable, largely because “interest rates [were] much higher than the actual income from working the land” (Mondragón, 2006, p. 168; see also: C. Vargas et al., 2016, pp. 38–39). High land prices may also have contributed to a large number of loan defaults.

In contrast to previous efforts, there was no clear economic rationale (e.g. to control food price inflation or boost internal demand) behind the most recent attempt at reform. On the one hand, the domestic supply issue had been ‘addressed’ through trade liberalisation, which allowed for the import of low-cost food and raw materials. On the other hand, expanding domestic demand was no longer a priority under export-led growth. Furthermore, the government continued to support large-scale agriculture. Put simply: the central government no longer explicitly contemplates the ‘usefulness’ of redistributive land reform for capitalist development, as it did (*albeit inconsistently*) under the ISI-model. It seems that Law 160 was motivated, above all, by a desire to allay rural discontent, which was fuelling an ever-intensifying armed conflict. The first stated objective of the Law is to “promote and consolidate peace through mechanisms directed at achieving social justice, participatory democracy and the wellbeing of the *campesino* population” (Article 1.1).

Below, I discuss *some* specific norms established through Law 160. This is preceded by a simple introduction to the 1991 Constitution, which has important implications for indigenous and Afro land rights and inspired/shaped the 1994 agrarian law. Both (the 1991 Constitution and Law 160) are key to understanding the ‘mechanics’ of dispossession, discussed in the subsequent chapters, which show that the legalisation of usurpation and opportunistic land accumulation was achieved through a careful management and manipulation of Colombian land law, rather than by taking advantage of its collapse.

Given that much of the literature on dispossession emphasises the enabling role of discriminatory and weak legal protections, contemporary Colombian land law is not what some might expect. It certainly has many shortcomings, but *in some ways* is also comparatively ‘progressive’, at least on paper. For example, Colombia is just one of 23 countries to have ratified the International Labour Organisation (ILO) ‘Indigenous and Tribal Peoples’ Convention 169 (see the [ILO webpage](#)), which contains various norms that are supposed to protect these groups from dispossession. Also, indigenous and Afro lands under collective title are ‘inalienable, imprescriptible and non-seizable’. And while other countries were deregulating in ways that facilitated large-scale acquisitions (Wily, 2012b, p. 766), Colombia actually strengthened regulations that should have prevented wealthy individuals and businesses in particular from benefitting from the dispossession and displacement of *campesinos* who occupied or owned ‘reform lands’. As suggested below and in Chapter 2, the failure of these and other norms in preventing or limiting dispossession cannot be blamed simply on a weak rule of law (an ill-defined and slippery concept in any case); it reflects the political nature of the legal realm itself.

*The 1991 Constitution and indigenous/Afro land rights*

In 1991 Colombia adopted a new constitution, which replaced that of 1886. A student-led movement and peace negotiations with various guerrilla groups were central to achieving and shaping the constitutional change, negotiated through a National Constituent Assembly. The 1991 Constitution recognised a plethora of social, economic and cultural rights, plus a variety of channels for democratic participation. It also established political decentralisation in some areas, while retaining a centralist structure in others.

The third attempt at agrarian reform, as written into Law 160 of 1994, was formulated in response to the demands contained in the new Constitution (Corte Constitucional, 2016b, paragraphs 22-25; see also Article 1 of Law 160), which declared the State's "duty to promote [...] agricultural workers" access to land and to "improve the quality of life of the campesinos" (Article 64). For the Constitutional Court (2016), Article 64 implies that the peasantry has a constitutional right to access rural property and that the State has a constitutional obligation to adopt measures aimed at securing this right.

Nevertheless, Peña *et al.* argue that the 1991 Constitution "did not consider the peasantry as subjects of special protection, included clauses that practically made expropriation impossible and didn't reform crucial norms [especially the Civil Code] relating to the regulation of property rights that give enormous power to the rich and local elites" (p. 134). Peña *et al.* (2014) are right to critique the 1991 Constitution for 'forgetting' the *campesinos* and for doing very little to challenge and change the country's unequal property regime. Still, the single article (64) that explicitly mentions the peasantry has proven a useful -if imperfect- tool of resistance (see e.g. Sentence C-644 of 2012).

In contrast to mestizo peasants, indigenous communities did obtain special protections under the new Constitution, which promises respect for ethnic and cultural diversity (Article 7 and 68) and offers a foundation for strengthening indigenous autonomy (Articles 246, 286 and 330), political participation (Articles 171 and 176) and territorial rights (Articles 63, 329 and 330). In this context, Colombia ratified (via Law 21 of 1991) the ILO Convention 169, which is meant to uphold these groups' "right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use" (Article 7) and to prior consultation regarding economic projects that affect their territories (Articles 6, 15, 17) – among other things.

Some of the aforementioned constitutional articles refer to ‘ethnic groups’ in general and hence also apply to Afro-Colombians. Nevertheless, Transitory Article 55 is the only direct reference to “black communities”. It recognised their right to “collective property” over lands they traditionally occupy -specifically in the “Pacific Basin”- and ordered Congress to formulate legislation that would ensure the “protection” of their “identity”. Two years later, the government approved Law 70 of 1993, which acknowledged Afro-Colombians’ status as an ‘ethnic’ group with special rights similar (but not identical) to those of indigenous communities.

The new Constitution declared “the communal lands belonging to ethnic groups” to be “inalienable, imprescriptible and non-seizable” (Article 63); meaning that Afro and indigenous lands under collective title cannot be bought or sold, cannot be acquired through use or possession claims, and cannot be seized - for example, by banks seeking to recover money on an unpaid loan. Hence, such lands are supposed to be, at least partially, shielded from the dynamics of commodification. This norm should also -hypothetically- protect Afro and indigenous communities with collective titles from dispossession. To an extent, the special rules that apply to indigenous *resguardos* and Afro collective territories *do* provide better ‘land tenure security’ than that afforded to mestizo campesinos. Lands that are ‘inalienable’ and ‘non-seizable’ are sheltered from typical market-mechanisms of dispossession (e.g. foreclosure and distress sales) and private agents find it more difficult to legalise the usurpation of lands under collective ownership, precisely because they cannot be sold nor acquired through possession.

In spite of these safeguards, Afro and indigenous communities *are* still vulnerable to coercive dispossession. As noted by the Constitutional Court: “formal titling of land and the constitution of *resguardos* in practice doesn’t guarantee the material possession [of these lands] by the communities; in fact, their territories [...] are appropriated by illegal armed groups, delinquents/narcotraffickers, settlers, and agents motivated by economic interests” (Auto 004 of 2009). This Constitutional Court order focuses specifically on the indigenous population, but similar observations apply to Afro-Colombian communities.

The occupation of collective lands, such as that described by the Constitutional Court, can be explained as arising from an inability or unwillingness to enforce the law. But in the case of State-backed dispossession, to borrow from Marx (1867), the law itself becomes an instrument of theft. As discussed below, the State may ‘legally’ dispossess indigenous and Afro communities to make way for certain types of investments. Moreover, the separation between illegal and legal land grabbing is not always clear cut and private actors may also



use the law as an instrument of theft. For example, under certain conditions, land can be excluded or detached from a collective title through legal demarcation; a handful of individuals and companies exploited this procedure, albeit with limited success, to legalise their occupation of Afro territories in Chocó (see Chapter 7).

In general, law can be used to both legitimate and enforce dispossession but may also serve to challenge and even reverse such processes. And, notwithstanding the limitations and contradictions of 'rights'-based resistance (see Coleman, 2013, 2015a), Colombia's new Constitution, and the laws it inspired, certainly shaped the terms of historical struggles. Indeed, opposing groups criticise the same legal texts for different reasons. According to Ballvé (2013), "the rural oligarchy [...] saw the far-reaching reforms of the 1991 Constitution as undue concessions to subversive rebels and their presumed peasant allies" (p. 66). Meanwhile, others critique the Constitution for neglecting the *campesino* population and for preserving the property regime that benefits elites (see above). Similarly, Law 70 on Afro rights "provoked fierce opposition among the most conservative sectors of landholders", but is also slated by activists and scholars for its inadequacies (Grajales, 2013, p. 223; see also: Ballvé, 2013; Ó Loingsigh, 2013). Finally, while many point to the shortcomings of Law 160, which failed to halt -let alone reverse- land concentration; some complain that the law "is an obstacle to commercial agriculture", precisely because of the rules designed to prevent accumulation (Hommes, 2013; see also: Portafolio, 2013a).

#### *The titling of State lands under Law 160: a reformed privatisation process*

The new agrarian law of 1994 strengthened the rules surrounding *baldío* privatisation and restrictions on properties that derive from titles granted over these State lands. In theory and on the whole, these rules favour the *campesino* population. However, Law 160 also contains clauses that enable dispossession and property accumulation. Furthermore, even the progressive norms contained in the legislation failed to prevent further land concentration (achieved through purchase and usurpation) in practice.

Article 1 (point 9) states explicitly that "peasants with scarce resources" should have "preferential" access to titles over State lands (Congreso de la República de Colombia, 1994). More specifically, the law prohibits granting titles to persons or entities that already own or possess other rural land, and/or that have a "net patrimony superior to one thousand minimum monthly salaries" and proclaims that titling resolutions that violate these prohibitions should be considered null and void (Articles 71 and 72).

Law 160 also affirms that property rights over *baldíos* can only be acquired through a title granted by the State. For legal purposes, occupants of *baldíos* are not considered ‘possessors’ and thus have no lawful claim to the land in question, only a “mere expectation” that they will be granted formal title in future (Article 65). In other words, the law effectively declared *baldío* lands ‘imprescriptible’ (Corte Constitucional, 2016b, paragraph 22). This rule is best understood in contrast with the Civil Code, which allows *private* lands to be acquired through prescription; i.e. under certain conditions a person may obtain rights over land that he or she has possessed for a particular amount of time - e.g. Law 791 of 2002 establishes a period of more than 5 years (Peña Huertas et al., 2014, p. 137).

On the one hand, this rule (declaring *baldío* lands ‘imprescriptible’) is antithetical to popular or common-sense notions of ownership. Consider the following quote from Steinbeck’s (1939) *Grapes of Wrath*: “it’s our land. We measured it and broke it up. We were born on it, and we got killed on it, died on it. [...] That makes ownership, not a paper with numbers on it” (pp. 32-33). People across Colombia express a similar view: they own the land, even if they don’t have a title to prove it. But Law 160 denies peasant settlers automatic or implicit legal rights over the State lands they cleared and tilled, lands they call home. The government can reject their titling applications and allocate the land to someone else.

On the other hand, the rule theoretically also prevents elites from accumulating property rights over *baldío* lands, as they have done historically. According to Peña *et al.* (2014), even in the contemporary context, “coalitions of usurpers [...] take advantage of the norm” in the Civil Code, which allows for acquisition of private lands by prescription; the “dynamics of the war turned prescription into [something] that plays against the [general] population” (p. 137). So, the exemption of State lands from acquisition by prescription creates a barrier to dispossession.

Moreover, Law 160 imposed relatively strict land size ceilings: “as a general rule” *baldío* titles should conform to the Agricultural Family Unit or *Unidad Agrícola Familiar* - UAF (Articles 66 and 67). Law 135 of 1961 first introduced the UAF concept: parcels of land should be large enough to guarantee an adequate family income, but not so large that production *consistently* requires hired workers, i.e. labour beyond that which can be supplied by the family (Congreso de la República de Colombia, 1961, Article 50). However, this earlier legislation simply stated that INCORA should ‘preferably try’ to ensure that the lands it assigns correspond with the UAF and established a general ceiling for titling of 450 ha with exceptions. Under Law 160, in contrast, new titles should be no larger and no smaller than the UAF established for each zone or region, which varies according to factors

such as access to infrastructure, water availability, soil quality, etcetera. This *considerably* reduced the land ceiling in most areas. For example, even in Putumayo, where infrastructure and soil quality is poor, the UAF is 70 to 90 ha (INCODER, 2008) - much smaller than the previous 450 ha.

The UAF rules are supposed to delimit initial titling *and* prevent future concentration and fragmentation. Article 72 orders that “no person shall acquire property over terrains originally adjudicated as *baldíos* if the extensions exceed the maximum limit for titling [... i.e.] the Agricultural Family Unit in the respective municipality or region” (Law 160 of 1994). And that “any acts or contracts” that lead a single entity to “consolidate property” over more than one UAF will be annulled. To reiterate: the law forbids a single individual or company from accumulating lands that were originally titled as *baldíos* beyond one UAF<sup>90</sup> (this reinforced and clarified a norm already established in Law 30 of 1988).

Law 160 essentially consolidated a different regulatory framework for lands titled by the reform agency. Restrictions also apply to private lands that were acquired by INCORA and redistributed to reform beneficiaries (i.e. in addition to lands titled as *baldíos*)<sup>91</sup>. Informally, people even speak of ‘INCORA-ised lands’ or *tierras incoradas*. As Restrepo and Morales (2014) explain: “lands granted by the State within the framework of the agrarian reform processes [are supposed to] remain in the hands of the beneficiaries of those reforms [...] guaranteeing a circular market system that impedes, in theory, the accumulation [...] of these lands] by large investors” (p. 94). As discussed below, the central government has been attempting to dismantle UAF regulations, with the aim of legalising land concentration that already occurred and to facilitate future agroindustrial projects.

It should be said that Law 160 itself contemplates exceptions to the UAF land ceilings. Article 82 states that INCORA may create “Business Development Zones” and entities “recognised by the Ministry of Agriculture as specialist companies within the agricultural sector” can request titles over *baldíos* (in extensions determined by the institute’s Board of

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<sup>90</sup> Some claim this prohibition only applies to lands titled *after* Law 160 came into force. But according to the Comptroller’s Office, this interpretation of the law is erroneous (Contraloría, 2013, pp. 93–100). Article 40 refers explicitly to parcels granted *before* 1994 and proclaims that “in no case may a single titleholder [...] exercise dominion, possession or tenancy in any form over more than one Agricultural Family Unit”. In any case, a similar prohibition was asserted in Law 30 of 1988 (Article 13), which modified the 1961 agrarian legislation.

<sup>91</sup> Among other things, the Law (Articles 39 and 40) establishes that -for 15 years after the date of the titling resolution- land rights (property, possession, tenancy) over such plots may only be transferred to “landless or land poor peasants of scarce resources” and that even these transactions require “express authorisation” from INCORA.

Directors) within these zones. As of 2013, no Business Development Zones had been created and to the best of my knowledge none have been established since. However, certain lobby groups and individuals have been pressuring the government to put this norm to use (see e.g. Hommes, 2013; Portafolio, 2013a). And the Rural Social and Economic Development Interest Zones (ZIDRES), discussed below, are in essence very similar.

Finally, Law 160 permits, and in some cases orders, the exclusion of certain areas from titling. This allows the State to ‘reserve’ areas for mining and oil investments and hence is used as a tool for dispossessing *campesinos* who occupy *baldíos* coveted by these extractive industries. Other exclusions are supposed to protect *campesinos* from dispossession; for example, the Law prohibits the enclosure of communal floodplains and similar land areas, which may only be used for subsistence purposes and cannot be privatised (Article 69).

Sadly, many of the pro-*campesino* elements of Law 160 were ‘dead letter’. INCORA and -later- INCODER officials granted titles to countless individuals who were *not* peasants of scarce resources and/or who already owned other land – occasionally for extensions beyond the established UAF (i.e. the land ceiling rule was breached in the initial titling). Many notaries and land registry functionaries also allowed for the continuous violation of the norms in Law 160, in particular those designed to prevent the accumulation of former State lands. Judges even passed sentences permitting individuals to acquire *baldíos* via prescription, despite the law declaring them ‘imprescriptible’ (Contraloría, 2013; El Tiempo, 2013a, 2015a); an estimated 672,000 ha of State lands were privatised in this way (Semana Sostenible, 2018). Overall, according to the then Superintendent of Notaries and Registries, 70% of titles originating in State land grants “are no longer in the hands of *campesinos*” (cited in: El Tiempo, 2015a).

Peña *et al.* (2014) argue that “legislation from 1991 to 2010 is not based on land distribution [... and that] it promotes or allows concentration of land ownership”. As such, they contend, unequal land distribution in Colombia cannot be reduced to “improper application of rural property regulations” (Peña Huertas *et al.*, 2014, p. 124). There is, without doubt, truth to their assertions. Nevertheless, as the paragraphs above demonstrate, Colombian law does include norms designed to favour *campesinos*. So, while ‘improper application’ of these rules *alone* cannot account for Colombia’s unequal land regime, the failure to enforce certain laws and/or the resolve to violate or circumvent them, is an important part of the story.

It is worth highlighting that a significant portion of the land usurped or procured opportunistically during and in the aftermath of violence were State lands or lands granted to *campesinos* by the reform institute through the titling or redistribution program. As revealed in this subsection, on the whole, Colombian law inhibits elites from acquiring and/or accumulating these lands. So, the norms discussed above *should have* prevented wealthy individuals and businesses from benefitting from the dispossession and displacement of *campesinos* who occupied or owned certain types of land. That they failed to do so should not be attributed to institutional breakdown; rather, it reflects unequal power relations and a specific development ideology, which influence the interpretation and implementation of the law, as shown below and in the subsequent chapter.

### **5) The agroindustrial development model and legislative counter-reform offensive**

The first decade of the new century brought renewed attention to agriculture, which after a period of relative relegation once again came to be seen as pivotal to the country's development. As mentioned earlier, the Colombian government continued to provide subsidies and support for (especially large-scale) commercial farming after economic liberalisation. However, the rise in global commodity prices from 2006 invigorated interest in promoting the sector. This section focuses on policies and legislation that complement the land grabs executed by paramilitaries and their backers, as well as opportunistic and predatory acquisitions that occurred during and in the aftermath of violence.

The section discusses, in particular, how successive administrations since 2007 have attempted to quash rules intended to limit land concentration and ensure access for the *campesino* population. On the one hand, these changes (most likely will or already do) allow past infringements of the law to be forgiven and forgotten, preventing the recovery of lands acquired or accumulated unlawfully (note: this is not the same as legalising dispossession). Recall that Law 160 of 1994 expressly states that titling resolutions that breach certain norms may be annulled, as well as contracts/transfers that violate UAF rules. It is worth noting that while not all people and companies who broke these rules were involved in violent land grabs, many benefitted from the conflict context indirectly; conversely, countless usurpers, I would wager the majority, infringed these same norms, so these (counter)reforms equate to removing an obstacle to the legalisation of dispossession. On the other hand, these changes facilitate future large-scale agricultural projects on what were supposed to be 'reform lands'.

So, the government has been unable and unwilling to enforce its land laws and is now seeking to ‘forgive and forget’ historical legal violations by elite groups, as it has done historically. This might create the impression that Colombia suffers from a ‘weak rule of law’. However, the fact that so many investors and companies used complex strategies to evade legal restrictions or to disguise these violations provides evidence to the contrary. If the rule of law really were that weak, arguably they wouldn’t have expended resources in strategic evasion and concealment. Furthermore, different State entities and representatives disagree over how the law should be interpreted; some of these interpretations would conveniently eliminate the idea that there was a legal violation in the first place, so that the proposed ‘forgive and forget’ policies appear to uphold rather than violate rule of law principles. Thus, in addition to further contextualising recent dispossession in the broader political economy, this section supports the idea (discussed in Chapter 2) that the legal realm is itself an arena of struggle and conflict (consider, for example, the Comptroller’s critical position vis-à-vis the Santos administrations’ actions and discourse, or the defeat of certain initiatives via appeals to the Constitutional Court) and problematises the rule of law concept.

*The Uribe administrations’ agrarian legacy: subsidies for the elite and INCODER*

In 2006 the Ministry of Agriculture and Rural Development launched a 15-year plan (*Apuesta Exportadora Agropecuaria*) to encourage ‘competitive specialisation’ and boost agro-exports. The plan focuses on ten groups of products deemed to have ‘export potential’ (e.g. biofuels, beef, special coffees and tropical fruits). The aim is to increase the area dedicated to the production of exportable goods from 1.9 to 4.4 million hectares and double export volumes by 2020. The document includes a commitment to increase direct and indirect subsidies to this end (MADR, 2006, pp. 3–13; El Tiempo, 2006a). The beneficiaries of the State’s agricultural programs have included politicians, domestic firms controlled by billionaire bankers, foreign investors, multinational companies, narcotraffickers and enterprises established by paramilitaries on stolen lands (Contraloría, 2013, pp. 110–143; Robledo, 2009; CIJP, 2005).

A year after the launch of this plan, the Uribe administration passed the infamous Rural Statute (Law 1152 of 2007), which basically “guaranteed land access for the business sector at the cost of the peasantry” (L. R. Sánchez, 2010, p. 4). Among *many* other things, the Statute would have effectively withdrawn the UAF land ceilings described above. The law

was declared unconstitutional in March 2009 on the grounds that the government failed to consult with indigenous and Afro communities. But domestic and foreign investors alike continued lobbying for a ‘solution’ to the UAF ‘problem’. Just months after the repeal of the Rural Statute, the government was formulating new legislation to eliminate these rules - blamed for deterring international investment in the agricultural sector (Portafolio, 2009a).

The Rural Statute was in keeping with earlier decisions made by the Uribe government, including the liquidation of INCORA in 2003. The stated aim was to improve administrative efficiency; INCODER (the Colombian Institute for Rural Development) assumed the responsibilities previously assigned to INCORA. Nevertheless, even the name of the new institute (the term ‘rural development’ replaced ‘agrarian reform’) hinted that there was more to the decision. The Attorney General at the time noted: “the message that seems to underlie the decision [to eliminate INCORA] is the indefinite postponement of the primary aim of implementing a genuine and just agrarian reform in Colombia” (cited in: Thomson, 2011, p. 345). This seems to be confirmed by redistribution figures, which were much lower during INCODER’s reign compared to that of its predecessor INCORA (Contraloría, 2013, pp. 48–49; see also: C. Vargas et al., 2016). INCODER went on to become one of the most corrupt entities within the Colombian government. In the words of the ex-Minister of Agriculture and a former employee of the same ministry: “for many years [INCODER] was practically co-opted by dark interests and by paramilitary forces” (Morales & Restrepo, 2014, p. 76). (A more accurate rendering of the ‘co-optation’ of INCODER would also refer to the role of rural elites.) This was apparently “the principal factor” behind the liquidation of INCODER in December 2015 (Semana Sostenible, 2016b); the institute was replaced by the National Land Agency (ANT) and the Rural Development Agency (ADR).

*The Santos administrations: the persistent attack on UAF rules in favour of agroindustry*

In many ways, the Santos administration’s (2010-2018) agricultural and land policies had much in common with those promoted during the Uribe presidency. The 2010-2014 National Development Plan referred directly to the global rise in agricultural commodity prices as an important “opportunity” for Colombia and declared agriculture one of the country’s main “engines of growth”, alongside mining and energy, housing, transport and infrastructure (DNP, 2011a, pp. 65–66). The Santos government also attempted to change legislation (with some success), in particular UAF rules, in order to “promote efficient land use” and “facilitate private investment in agroindustrial projects” (DNP, 2011a, p. 240).

Law 1450 of 2011 (underwriting the 2010-2014 National Development Plan) added two new articles to the 1994 agrarian legislation. Article 72a allowed the government to “authorise” transactions that contravene UAF land ceiling rules. Article 72b clarified that any project requiring a land area exceeding 10 UAFs would require permission from a special government commission, while the accumulation of 10 UAFs or less would “not require authorisation or approval” (Congreso de la República de Colombia, 2011b, pp. 21–22). Dissident politicians lodged an appeal before the Constitutional Court, which overturned the cited articles on the grounds that they neglected “the constitutional mandate” to promote “workers’ access to rural property” and that the “regressive measures were not accompanied by sufficient justification” (Corte Constitucional, 2012). The Court’s ruling didn’t break the government’s resolve.

The Santos administration was already working on another law (dated 2012), which aimed to provide “juridical and economic security for investments in the Colombian countryside” (cited in: Contraloría, 2013, p. 100). The proposed law contained a long list of amendments to existing legislation, including an article that would have legalised the accumulation of State lands titled prior to 1994 (Contraloría, 2013, p. 104). Overall, the various changes put forward amounted to an “elimination of the UAF as a legal concept” (Contraloría, 2013, p. 101). This specific proposal was eventually withdrawn; nevertheless, much of its contents reappeared in later legislation.

According to a report published by the Comptroller’s Office, Decree 1465 of 2013, which is meant to clarify and regulate the contents of Law 160 of 1994, actually introduces “confusions and ruptures” in Colombian land legislation. The Decree could be used to “forgive and forget” historical legal violations, such as titling in excess of the established ceilings or in favour of persons who were not eligible reform beneficiaries, as well as the acquisition of State lands via prescription. It also seems to pardon the accumulation of former State lands titled prior to 1994 (Contraloría, 2013, pp. 93–100). The Comptroller’s Office concludes that the Decree poses an obstacle to “the process of rural land democratisation ordered in the Constitution” (p. 99).

Meanwhile, a handful of government functionaries started publicising the idea that the accumulation of lands with *baldío* origins is only unlawful if the title and land register for the property in question contain explicit reference to the UAF restrictions (Bermúdez Liévano, 2013). The relevant authorities often failed to make these annotations, meaning such an interpretation of the law would absolve almost all individuals and companies that violated UAF rules (Molano Jimeno & Medina, 2017), even if they knew about them.



A few years later, the Santos administration secured yet another victory for large-scale agribusiness: Law 1776 of 2016 or the ZIDRES (Rural Social and Economic Development Interest Zones) legislation. The stated objective is to promote “a new model of economic development” in territories “far from urban centres, with a low population density and limited infrastructure [... that] require large investments to become productive” (Congreso de la República de Colombia, 2016). The law allows the government to grant investors use rights over *baldíos* in areas designated as ZIDRES (as well as special incentives/stimulus packages) on the condition that the proposed “productive project [...] integrate[s] small and medium producers as associates” (Article 7 and Article 13). The interested investor may either enlist *campesinos* who already own a parcel in the area or must “guarantee” that associates will “acquire a certain percentage of land” (Article 7). The law does not define the ‘integration of small and medium producers’; apparently this may involve anything from out-grower schemes to smallholders renting out land to the investor.

The idea behind the ZIDRES legislation is not new. The government has been promoting this ‘model of development’ since at least the 1990s (Molano Bravo, 2013, p. 48), offering special incentives -such as discounted loans and grants- to investors who draw smallholders into their business plans. These ‘associative projects’ used to be referred to as ‘strategic alliances’; the government perhaps opted for a new label in an attempt to disassociate the ZIDRES scheme from past scandals, of which just two examples are included here. In the Urabá region, paramilitaries and their partners used the strategic alliance model to ‘launder’ usurped land in the Tulapas area *and* in an attempt to legalise the violent occupation of collective territories in Chocó (Juzgado 5to de Medellín, 2014; Ballvé, 2013; Verdad Abierta, 2011c).

Opposition senator Jorge Enrique Robledo labelled the ZIDRES legislation the “Urrutia-Lizarralde Law” after Ruben Darío Lizarralde - the Minister of Agriculture between 2013 and 2014 and Carlos Urrutia - Ambassador to the USA between 2012 and 2013. Urrutia’s legal firm aided the evasion of the UAF rules (see below), while Lizarralde was party to UAF violations during his time as manager of the firm Indupalma<sup>92</sup>. Lizarralde

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<sup>92</sup> A report by the Comptroller’s Office confirms that Indupalma accumulated control over various properties in Vichada originating in *baldío* titles. The report describes how the firm Agroindustriales El Palmar, of which Lizarralde was also manager, acquired a property in Vichada just months after the original title was granted. It also notes that applications had been filed for titles over the lands surrounding this same property. In this context, the Comptroller’s Office reiterates that INCODER has a duty to verify that titling resolutions and any future transactions involving these lands “comply with the mandate established in Law 160 of 1994” (Contraloría, 2013, pp. 139–140).

himself “invited” friends and family to participate in Indupalma’s investments in Vichada by acquiring lands (no more than one UAF each) that could then be used by the company, allegedly without breaching the law (Semana, 2013). It is conceivable that Indupalma’s ‘associates’ in Vichada will be labelled ‘medium producers’, allowing them to access the benefits of the ZIDRES scheme.

As of 2017, the government was working towards yet another piece of legislation. A draft version of the document contemplates various mechanisms that would extend the ‘forgive and forget’ policy to all persons and companies that accumulated lands originating in the State titling program. It also proposes to authorise the use of *baldíos* for investment projects (beyond ZIDRES) that incorporate reform beneficiaries as ‘associates’ *or* so long as ‘land access’ is first ‘guaranteed’ for ‘vulnerable’ groups. Some 37 NGOs and social movements signed a declaration rejecting the planned changes (Medina, 2017a, 2017b; Molano Jimeno & Medina, 2017).

Three final points deserve consideration. First, UAF regulations only apply to lands granted through the reform program. There is no law to prevent investors from buying up other lands, most of which is already concentrated into large properties. The issue, as explained by Mondragón (2012), is that these large properties are expensive (p. 6). In contrast, much of the land originating in the reform program can be acquired cheaply, especially in areas desolated by the armed conflict. So, it’s “not that national and foreign investors can’t buy land” elsewhere, but rather that they “don’t want to pay commercial prices” (Mondragón, 2012, pp. 6–7).

Second, the UAF rules are in no way a hindrance to contract farming or other types of ‘associations’ between investors and landholders whose properties originate in State titling or redistribution programs - so long as this doesn’t involve property concentration. In short: the ‘associative model’ the government claims to defend does not require the elimination of existing land ceilings. Fuerte and Tacha (2016) argue that the emphasis on ‘associative projects’ is part of the government’s endeavour to “refine its juridical technique [...] to ensure the [ZIDRES] law would pass the test of constitutionality” (p. 25). The fact that many so-called associates are not *campesinos*, nor even medium producers, does not inspire confidence. Poligrow’s operations in Meta are illustrative in this regard. The firm essentially formed an alliance with itself: in 2010, Carlo Vigna Taglianti, the legal representative of Poligrow Colombia Ltd, signed a ‘productive strategic alliance agreement’ with Carlo Vigna Taglianti, the legal representative of Ita Aceites Vegetales SAS - also referred to as the ‘farmer’ (CIJP, 2015a, pp. 36–40; additional examples in: Molano Bravo, 2013, p. 48).

Finally, even if the focus on the associative model is more than just a smokescreen, this ‘development’ strategy, and the idea that the *campesino* populations’ access to State lands will be dependent on joining such schemes, is itself extremely controversial. In Colombia, ‘productive alliances’ -genuinely involving *campesinos*- often transfer all business risks to the smallholders (Molano Bravo, 2013, p. 54; CIJP, 2015a, p. 36; for additional critique, see: Grupo Semillas, 2016; Ortiz Soto, 2014). The ‘associative model’ may refer to diverse arrangements; some of which are designed to lock smallholder associates into extremely exploitative relations and some of which may permit commercially-oriented farmers to benefit. This model certainly isn’t panacea; as the Colombian government suggests. The outcomes depend on multiple factors, as shown by research on experiences in other countries (see e.g. Li, 2011; Vicol, 2017).

*Agroindustrial development and land accumulation in the altillanura region*

The eastern *altillanura* -encompassing the department of Vichada, plus parts of Meta and Casanare- has become the main testing ground for Colombia’s globalised agroindustrial development and hence is an illustrative case. The government aspires to convert the region into a hub of “21st century agriculture”, closely following the model applied in the Brazilian *cerrado*, which is said to have made the country an “agricultural power” (Semana, 2010). The idea surfaced in the early 2000s (see e.g. FENAVI, 2003; El Tiempo, 2003). Henceforth, the central government started concocting various development plans for the region (OXFAM, 2016, p. 10). By the end of the decade, politicians, businessmen and Colombian newspapers were relishing in the idea that Colombia could soon have its own *cerrado* ‘miracle’ (Portafolio, 2009b; Semana, 2010).

These development plans and corresponding investor expectations spurred a regional land rush. Between 2004 and 2010, the INCODER granted titles for approximately 1 million hectares of *baldío* lands in Meta and Vichada (Arias Castillo, 2013, p. 5); as of 2016, these titling resolutions were being revised as part of an investigation into irregularities committed by INCODER functionaries in the region (González Posso, 2016, p. 20). In Vichada alone, 2,953 plots (many of them newly titled) changed hands between 2008 and 2011 (El Tiempo, 2011a). Dozens of land transactions examined in a report by Comptroller’s Office reveal massive price increases, in some cases of more than 2000%, in a few years or even months (Contraloría, 2013; see e.g. pp. 121 and 130).

The Fazenda enterprise, apparently named in honour of Brazilian agroindustry (*fazenda* means plantation in Portuguese), was one of the first mega-projects in the region. It was established around 2003 by the domestic business group Aliar. Fazenda controls over 10,000 hectares of soy and maize and combines practically all components of pig farming within a single complex: from the production and processing of the animal feed, to the rearing and slaughter of the pigs, and the processing and marketing of the meat. Politicians have praised the project as representing a new ‘model of development’ for the region and for Colombia (see e.g. Jaramillo, 2017; Minagricultura, 2015; Portafolio, 2008). The ‘model’ has involved the violation or evasion of legislation designed to ensure *campesino* land access, continuing the scofflaw tradition of elites in previous eras.

In 2013, authorities initiated an administrative process to recover 16,350 hectares controlled by La Fazenda (for incompliance with UAF norms). These *baldío* lands were titled in the mid-1990s to people who worked for the ‘emerald tsar’ and paramilitary leader Víctor Carranza<sup>93</sup>. They were then were acquired by a company, also linked to Carranza, which merged the plots into larger estates and resold to firms owned by Aliar’s investors, who via a complicated chain of transactions rented out the land for their Fazenda project (Contraloría, 2013, pp. 126–128; El Tiempo, 2013d). It is unlikely that Fazenda will actually lose control over this land; this is precisely the type of case the legislative changes described above are aimed at resolving/legalising.

Aliar/Fazenda is one of more than a dozen companies listed in a report by the Comptroller’s Office on the unlawful concentration of property in Meta, Vichada and Casanare (Contraloría, 2013). Most of these companies were clearly aware of the restrictions they infringed; at least half created “paper” firms (SAS- ‘simplified shareholder societies’) in order to buy one UAF at a time; for example, if the maximum UAF is 1,000 ha, then 25 different SAS would be needed to accumulate 25,000 ha (Arias Castillo, 2013; Contraloría, 2013) – lawyers advised this strategy would absolve them from the UAF rules.

In some cases, the SAS intermediary firms were sold on to others registered outside Colombia. The domestic agribusiness Riopaila SA, for example, created some 33 SAS through which it purchased more than 35,000 hectares of former State lands in the

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<sup>93</sup> Carranza commanded his own paramilitary group, which was apparently responsible for the Miraflore massacre in 1997. The ‘emerald tsar’ was famous for evading justice; he died in 2013 without ever being convicted despite clear evidence of his involvement in the paramilitary project (see [the US National Security Archive webpage on Carranza](#)). Ex-combatants claim the lands now controlled by La Fazenda served as a paramilitary base and contain mass graves (El Tiempo, 2013d).

*altillanura*. The shares of these paper firms were ceded to five Spanish holding companies, which in turn are owned by another firm registered in Luxemburg, which apparently also belongs to Riopaila. In any case, Riopaila officially acquired the SAS paper firms as subsidiaries (Contraloría, 2013, pp. 119–122). As one news-article asks: why would a Colombian company buy Colombian land through foreign firms? The answer, according to the author, is that by moving its capital in this way, Riopaila is covered by international investment treaties that give access to dispute settlement mechanisms, which may allow the company to sue the Colombian government in the instance that it attempt to revoke the land titles (El Espectador, 2013b).

There is no doubt that this was all part of a carefully thought out strategy. In 2013 Carlos Urrutia renounced his position as Ambassador of Colombia to the United States, following revelations that his law firm Brigard & Urrutia had provided legal advice to agroindustrial companies, including the national firm Riopaila (mentioned above) and the US-based company Cargill (which, according to the Comptrollers' report, created some 40 firms in order to acquire 39 properties - totalling 52,575 ha- in Vichada, all originating in *baldío* titling resolutions), helping them to evade UAF laws (El Tiempo, 2013c).

Most of the companies listed in the Comptroller's report seem to have consolidated control over lands in the *altillanura* via voluntary transactions<sup>94</sup>. Nevertheless, they are almost certainly indirect beneficiaries of violence in the region. Tens of thousands of people have been displaced from or within the *altillanura* over the last three decades – in particular at the hands of various paramilitary groups. This displacement facilitated the amassing of land (previously occupied by *campesino* and indigenous communities) by people that controlled or were allied with paramilitary forces, who then obtained titles with the help of corrupt officials (Arias Castillo, 2013; DNP, 2011b). Some of the above-mentioned companies acquired land from the paramilitaries, their allies or their figureheads.

Violence has been constant throughout the land rush. In 2014, the Ombudsman's Office reiterated official "alerts" regarding the "forced displacement risk" in various municipalities, especially due to homicides and threats attributed to The Liberators of

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<sup>94</sup> As far as I know, only one of the companies listed in the Comptroller's report has been accused of using violence to consolidate its land control: Poligrow. According to the Interchurch Justice and Peace Commission, the Aljure family were "obligated" to meet with paramilitaries and Poligrow's lawyer, who demanded that the family not reclaim the Santa Ana farm coveted by the company. A few days later, paramilitaries forcibly displaced the family and destroyed their home (CIJP, 2015, pp. 33–35). The CIJP (2015) report suggests that occupants of the Barandales farm were also displaced by paramilitaries at the request of Poligrow (p. 37).

Vichada. Some of their victims reported “facing pressures and/or requests to sell the land from people and companies interested in implementing agroindustrial and mining projects” (Defensoría del Pueblo, 2014). A special delegate of the Ombudsman notes that the same paramilitary group is taking advantage of disputes over *baldíos*, “offering its services with the purpose of influencing the resolution of these controversies by promoting the displacement of the colonos and consequent land abandonment via intimidation, threat, harassment [... in order to] appropriate the lands that have been occupied by poor campesinos for years” (cited in: OXFAM, 2016, pp. 13–14).

A 2011 report by the National Department of Planning (DNP) describes multiple, historical and contemporary, struggles over land in the *Altillanura*. It comments specifically on how “extractive activities and large forestry and agroindustrial projects have generated disputes over the territory and its resources” (DNP, 2011b, p. 23). Ironically, this report was expressly written as “an input for the elaboration of the CONPES” (p. 3) development policy underwriting the corporate take-over of the region. In other words, the same document simultaneously promotes exploiting the “productive potential” of the *Altillanura* through large-scale private investments (DNP, 2011b, pp. 4–14), while acknowledging land conflicts in the region and their links to such projects. The situation, according to the DNP’s report, is particularly difficult for the circa 40,000 indigenous people of the region. In addition to the displacements caused by armed actors and clashes with peasant settlers, it points to “territorial conflicts” between indigenous groups and

businesses [that] have acquired large extensions [of land] for rubber and other cultivations, which restrict the mobility, given the nomadic and semi-nomadic character of some groups [*sic*], and the development of their traditional subsistence activities (fishing, hunting, collection) [...] Ethnicities like the Sikuni and Piapoco have been forced within a more limited territory [...] condemning them to progressive disappearance (DNP, 2011b, p. 26).

In other words, the government is actively promoting the development of agroindustry in the *Altillanura*, in full knowledge that this contributes to the “extermination” of local indigenous groups. The final section of this chapter focuses on the oil and mining sectors, which are at the fore of Colombia’s dispossession-based development model and associated social and political conflicts.

## 6) The oil and mining industries and State-backed dispossession and displacement

As explained in section one, the mining and energy sectors have gradually acquired more weight in the Colombian economy since the mid-1980s and especially since the early 2000s. In addition to oil and coal, which are currently the leading extractive industries in Colombia, extraction and exports of ferronickel and gold have also grown. Other smaller mining sub-sectors include emeralds, silver, platinum and copper. Coltan, uranium and a number of other mineral deposits are currently under exploration. The government also hopes to turn the country into a natural gas exporter and already sells hydro-power to neighbouring countries (Dinero, 2013; UPME, 2014a). The 2010-2014 National Development Plan officially recognised and declared the mining and energy sectors one of Colombia's main "engines of growth". Here, for reasons of space, I focus only on petroleum and mining.

Since the late 1990s, successive governments have actively promoted mining in Colombia (see, for example, the National Mining Development Plans of 1997, 2002-2006, 2007-2010). During the Uribe administration (2006), the government launched the "2019 Vision" Mining Development Plan, which included aims such as doubling coal and quadrupling gold extraction, tripling the area under mining contracts, and turning mining into one of the main sources of State income (UPME, 2014b, pp. 11-13). The Santos administration reinforced this economic strategy: it stated its intention to "position Colombia as a mining country at the global level" (UPME, 2014b, pp. 11-13) and is currently working on a new "2025 Vision" for the sector.

The government has also been promoting investments in oil exploration, as proven reserves dwindle. It has campaigned for offshore exploration and is studying the possibility of extending operations in the Amazon. It is also offering discounts on royalties, more flexible contracts, and other types of 'stimulus' to attract investment (Celedón, 2014a; Amat, 2015; Güesguan Serpa, 2015; La República, 2015); this is on top of previous reforms favouring private investors implemented since the 1990s.

It is worth noting that the oil sector accounts for less than 1% of total employment in Colombia (UPME, 2015, pp. 11-12) and the mining sector another 202,000 jobs as of 2013 – also less than 1% (UPME, 2014b, p. 91). In contrast, agriculture and fishing (put at risk by mining and oil operations) provide for the livelihoods of *at least* 7.2 million people<sup>95</sup>.

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<sup>95</sup> According to the 2014 agricultural census, 2.7 million producers count on 4.5 million permanent workers (this includes family labour but does not include temporary workers).

The promotion of these sectors involves ensuring investors' access to land in the right places and at the right price relative to the demands of capital accumulation. Oil and mining companies not only benefit from coercive land acquisition, they often *require* it. Many people are unwilling to give up their lands voluntarily, meaning that oil and mining companies are dependent on the State's taking powers. In Chapter 8, I discuss actual cases of dispossession and argue that 'legal' coercive land acquisitions in Colombia cannot always be neatly separated from 'illegal' usurpations and displacement in the conflict-context. Here I focus on the legal underpinnings of dispossession, which include: expropriation and enforced easements; the eviction of people from *baldíos* and titling prohibitions within these State lands; and the imposition of oil and mining projects in Afro and indigenous territories via -ironically- the prior consultation process. I then examine the government's attempts to inhibit popular consultations and municipal regulatory power, which have been used to block oil and mining operations. This subsection provides further evidence of these sectors' dependence on State coercion, but also demonstrates that the State itself is not unitary. Thus, I also point to the contradictions and conflicts that arise from the State's role as facilitator of capital accumulation. Finally, I provide a brief discussion of how trade and investment treaties may compel States to dispossess their citizens on behalf of investors.

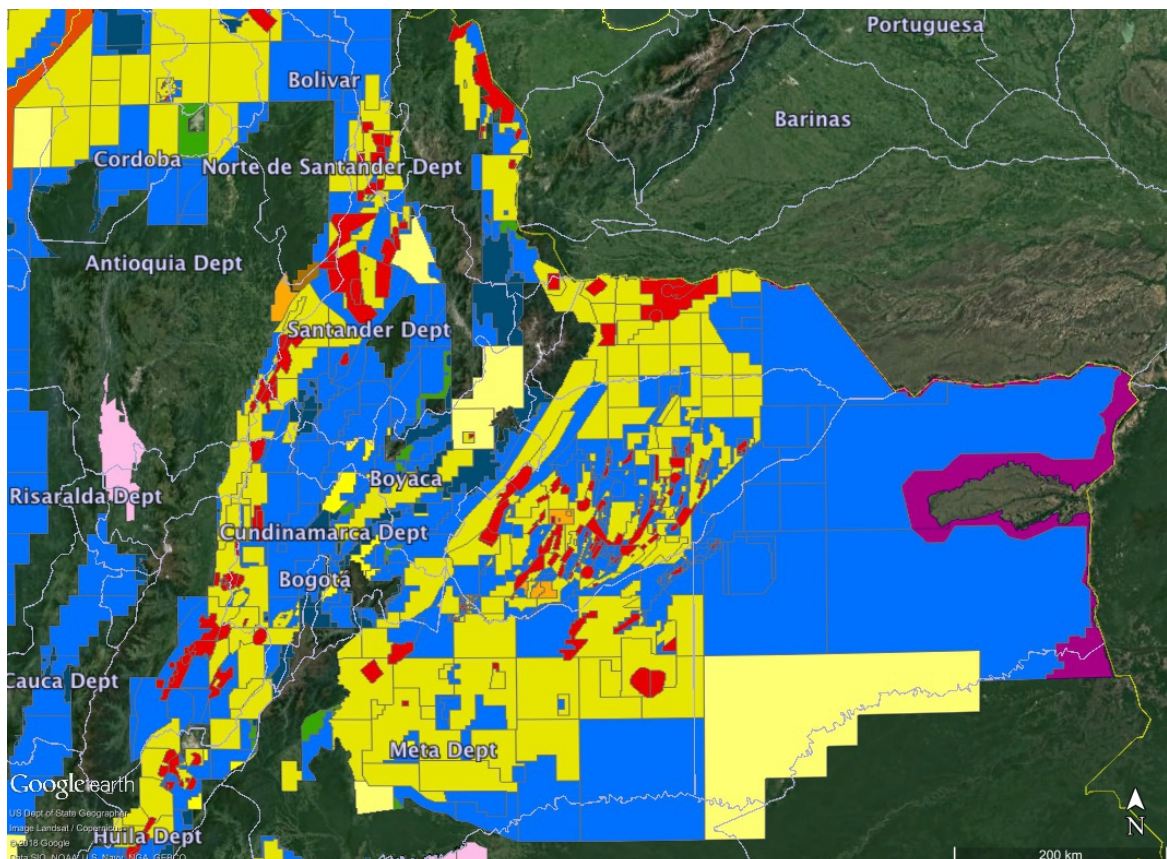
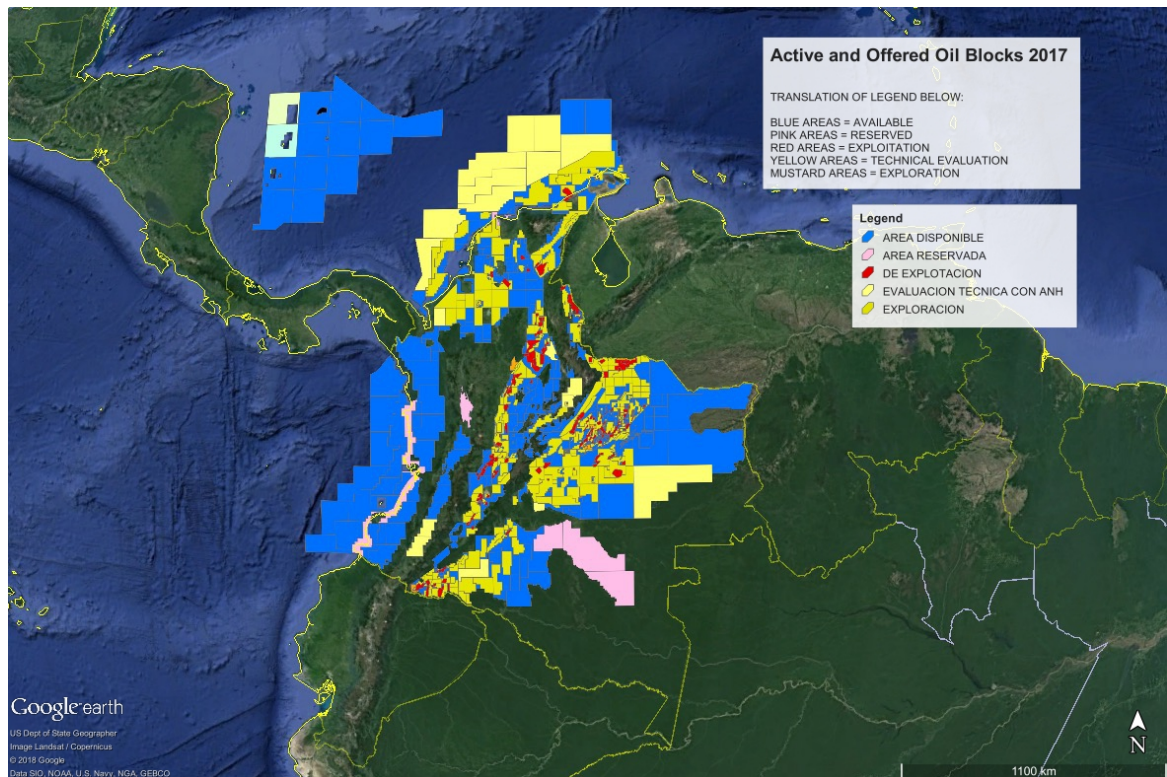
*Expropriation, enforced easements, baldío 'recovery', titling prohibitions, prior consultation*

Under Colombian law (Article 332 of the Constitution), the State owns the subsoil and non-renewable natural resources in general. The State grants companies or individuals the 'right' to explore and exploit the subsoil through 'concession contracts'. As shown below, the legal fiction that separates the soil and subsoil has generated tensions within Colombian law, though, on the whole, rights over the subsoil are given precedence over title to the soil.

As of 2012, the Colombian government had approved over 9,400 mining concessions covering some 5.6 million ha, while some 19,000 applications were still pending. The Santos administration also declared more than 20 million ha "strategic mining reserves", subject to a different regime in which concessions are granted through a 'competitive selection process' instead of on a 'first come, first served' basis (Dinero, 2012b; Negrete Montes, 2013, pp. 23–24). Negrete (2013) estimates that total mining 'interests' (concessions granted and those solicited, plus designated strategic mining reserves), extend over 40 million ha or more than a third of Colombia's land area (p. 24). (Note: this does not mean the entirety of this land will actually be exploited, much less 'cleared' of people for this purpose.)



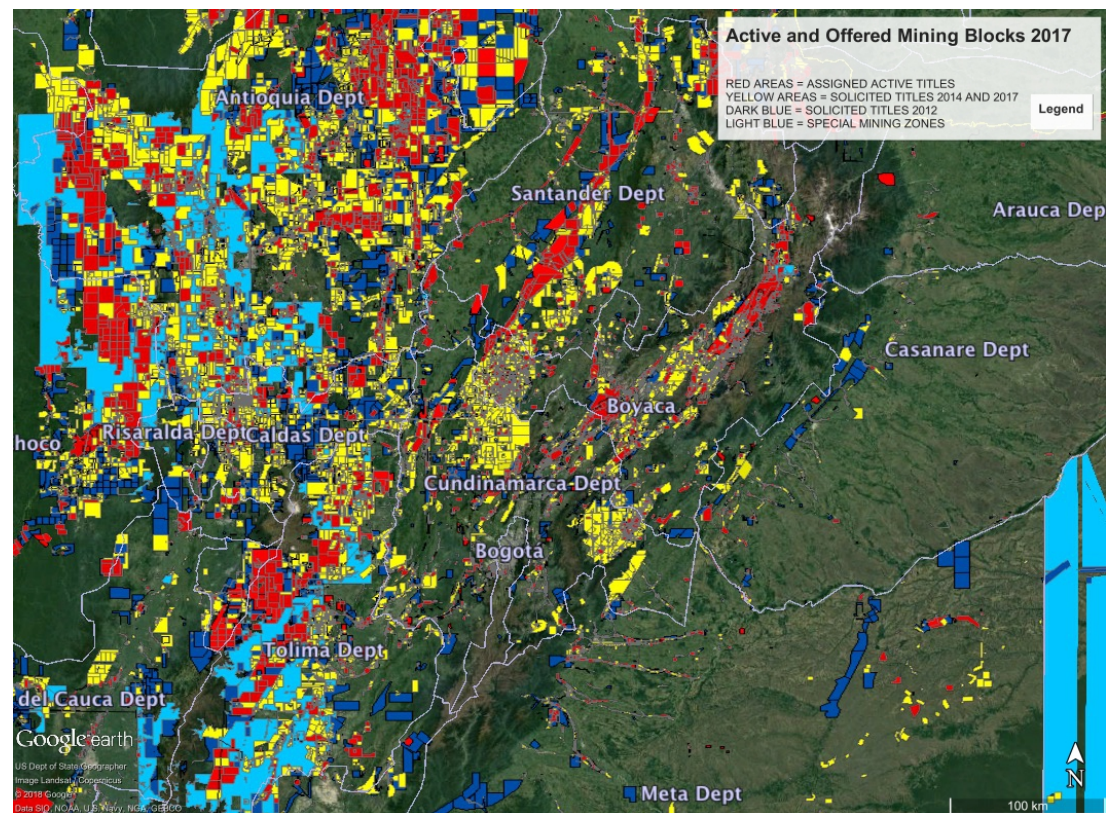
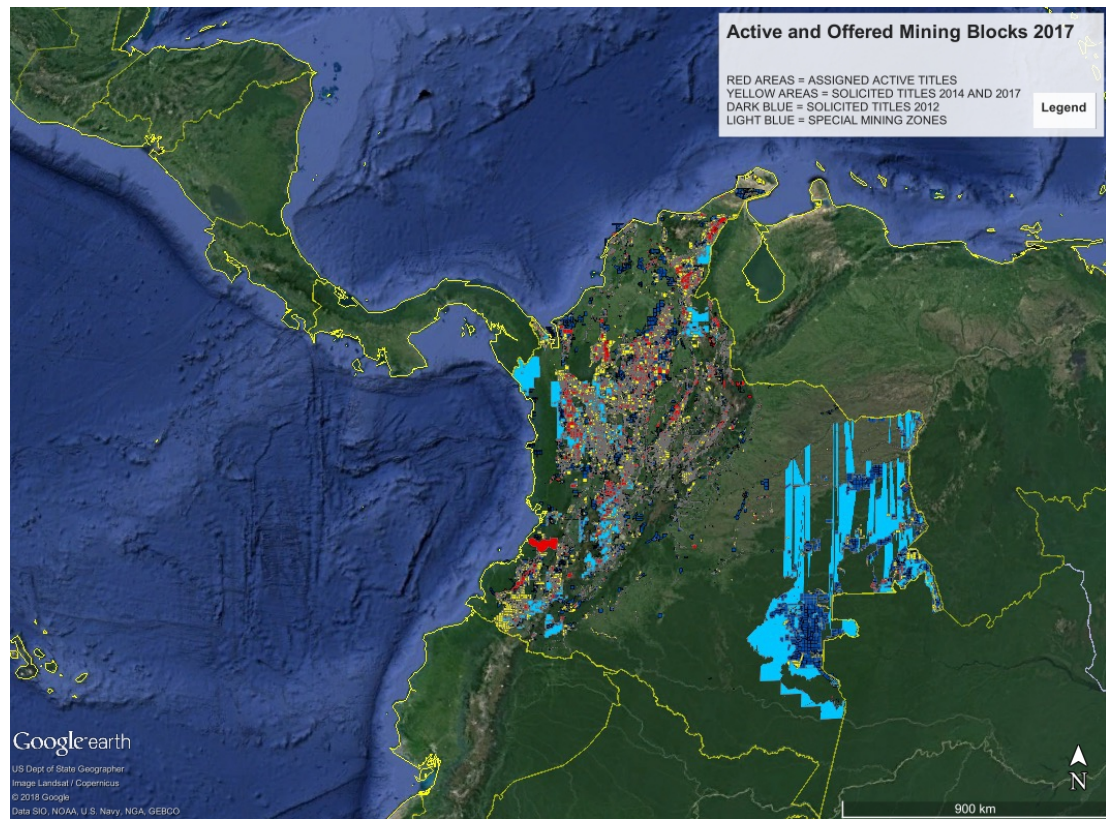
Figures 6 & 7 – Active and Offered Oil Blocks in Colombia



Images generated in Google Earth with .kmz file overlays by [Tierra Minada](#), based on official data.



Figures 8 & 9 – Active and Offered Mining Blocks in Colombia



Images generated in Google Earth with .kmz file overlays by [Tierra Minada](#), based on official data.

The area covered by hydrocarbon (oil and gas) interests is even larger. According to the National Hydrocarbons Agency (ANH), just under 2.3 million hectares (ha) lie within production contracts, almost 25 million ha are under exploration concessions, and another 47 million ha are 'available' for the taking in future bids (ANH, 2014). Put together, this is equivalent to more than half Colombia's total surface area.

In terms of land rights, the law favours oil and mining companies under the supposition that exploiting the subsoil is for the public good. Article 1 of Law 1274 (2009) and Article 13 of Law 685 (2001) declare all facets of the hydrocarbon and mining industries (respectively) as projects of 'public utility and social interest'. This is effectively an expropriation free pass – with no consideration of the particularities of each project - i.e. actual public 'costs and benefits'. It means that Colombian people have no enforceable legal right to refuse oil or mining operations on their land – even if they hold a title. In other words, just as discussed in Chapter 2, property rights are violated on the grounds that these for-profit ventures will contribute to a vaguely defined 'social interest'.

If a landowner is unwilling to negotiate a sale, the oil or mining company may request that the State expropriate the terrain on its behalf. They may also acquire use rights (a *servidumbre* or easement) over portions of land required for the construction of (e.g.) roads or pipelines. Again, if the landowner refuses private negotiations, the oil or mining company can resort to legal proceedings to gain these use rights. Compensation is required in both cases (full expropriation or forcible acquisition of use rights); however, the payment received is often insufficient to cover the individual's or family's loss. Furthermore, people who are unwilling to sell (and thus subjected to expropriation or enforced easements) are often precisely those who feel a strong attachment to their land that can't be represented in monetary terms.

In September 2016, the National Mining Agency (ANM) stated that it was "advancing procedures for the administrative declaration of expropriation" for 159 properties (response to freedom of information request: "Radicado ANM No. 20165510219512" - 15/09/2016). The Ministry of Mines and Energy, for its part, reported "attending to 52 requests for administrative expropriation related to mining projects during the last 10 years" (response to freedom of information request: "Radicado No. 2016039530" - 14/06/2016). Unfortunately, I did not get access to similar material from the National Hydrocarbons Agency (ANH).

In any case, these figures are not representative of the dispossession associated with mining and oil investments, given that (a) the threat of legal proceedings is often enough to secure a so-called ‘voluntary’ transaction; (b) they do not include forcible acquisition of easements (c) or the imposition of mining and oil projects within the collective territories of indigenous and Afro communities; (d) nor do they comprise the forcible acquisition of *baldío* lands; (e) finally, they do not cover those plots of land that were acquired in the context of the armed conflict and in the aftermath of forced displacement (f) nor indirect forms of dispossession/displacement that result from the ecological/social devastation caused by mining and oil operations. The paragraphs that follow aid clarification of points a to d; Chapter 8 provides further evidence and addresses points e and f.

In many cases the *threat* of legal proceedings is sufficient for the interested company to obtain property or use rights over the sought-after land, even if this goes against the original owners’ will. Smallholders, in particular, are unlikely to have access to the relevant legal advice or capacity to pay for a private lawyer and are effectively forced to accept so-called ‘voluntary’ negotiations. It is important to keep in mind the uneven power relations in such negotiations between an oil or mining company and a single property owner, especially when the affected titleholder is a *campesino* (Personal Interviews, 2015-2016).

To complicate matters, over 40% of farms in Colombia do not have legal titles (Morales & Restrepo, 2014, pp. 131–132). In some cases, this is due to informal transfers (without official registration of the purchase-sale) on plots of land with a history of private ownership. In others, families occupy land considered *baldíos* or without a record of formal private titles that, as such, technically belong to the State.

If a mining or oil company is interested in acquiring lands that are occupied but that are technically *baldíos*, there is no need for an expropriation process, as such lands already legally belong to the State. The authorities would perhaps initiate a procedure called “recovery of State lands wrongfully occupied”. Depending on the circumstances, the occupant may or may not receive compensation for any “improvements” he or she made to the land, such as crops or housing (see e.g. Decree 2664 of 1994). The State reserves the right to declare *baldíos* required for “projects of national interest” as “reserve zones” (Article 75, Law 160 of 1994), which excludes them from titling and opens the way for the ‘recovery’ process described above. The law regulating the negotiation or enforcement of easements (*servidumbres*) establishes that “equal treatment will be given to those people who occupy or possess *baldío* lands” (Law 1274 of 2009, Article 2, Final Paragraph).

However, in practice, the payment offered -if at all- is likely to be much lower when the person does not have a title (Personal Interviews, 2015-2016).

People living on lands legally considered *baldíos* also find that the establishment of oil or mining operations *in the area* (i.e. even if their land is not directly required for the project) presents an obstacle to their access to formal titles. The law prohibits the titling of *baldíos* within a 2.5 km radius of non-renewable resource exploitation<sup>96</sup>. It doesn't matter if the community established years *before* the arrival of the firm; the interests of the extractive industry prevail (Personal Interviews, 2015-2016).

The legal system seems to afford stronger protections to Afro-Colombians and indigenous peoples, relative to their mestizo counterparts – especially those with inalienable collective titles. However, oil and mining projects are simply imposed in their territories *without* a transfer of property rights. There is a legal obligation to consult with these communities before initiating the exploration and exploitation of natural resources within their lands, but this is frequently treated as a mere formality. The alleged aim of these consultations is to “seek the free and informed consent of the ethnic communities”; especially in “extreme cases” that involve “resettlement or displacement” of the community, the “storage or dumping of toxic waste” in their lands, or where the impacts of the project are so harsh that they put the “very existence of the ethnic community at risk” (Constitutional Court Sentence C371 of 2014). Nevertheless, the authorities have interpreted the law in such a way that *consent is not actually required*: “this [see above quote] does not mean, in any way, that the communities have the power of veto” (Corte Constitucional, 2014). This is a clear example of what Coleman (2018) calls “the contradictions between the formal recognition of citizenship rights and the crafting of a legal regime that undermines those rights” (pp. 5 and 14).

Thus, the process of consultation itself is transformed into a mechanism of dispossession - a way to stamp the appropriation of indigenous or Afro territory with an official seal of approval<sup>97</sup>. It is for this reason that some communities refuse consultation; because they know that the process may be used to legitimate a project that they wholeheartedly reject (Personal Interviews, 2015; Ó Loingsigh, 2013, pp. 60–61).

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<sup>96</sup> This used to be a 5 km radius under article 67 of Law 160 of 1994 and was recently changed by Article 1 of Law 1728 of 2014.

<sup>97</sup> I owe this observation specifically (as well as many other things I have learned) to discussions with my friends Diana Muriel and Lorenza Arango.

Furthermore, the government does not carry out consultations *before* granting concessions to oil and mining companies (ABColumbia, 2012, p. 9; Negrete Montes, 2013, p. 25). A Nasa leader from the Kiwnas Çxhab *resguardo* (Puerto Asís, Putumayo) explained the upshot: “They don’t come to consult. They come simply to tell people what they are doing, *because they already have the concession*. They are going to enter [the territory] at whatever cost and stepping on whoever need be” (Personal Interview, 2015).

Hence, many Afro and indigenous communities find themselves in a double-bind. On the one hand, prior consultation is the only official channel through which they can contest the imposition of mining and oil projects within their territories and they have to continually demand that this right to consultation be respected since companies often avoid or disavow their obligations in this regard. On the other hand, as noted above, consultation is often turned into an official endorsement of a project that the community opposes. For that reason, some communities have fought for the consultation to take place, but then attempted to stall the process in one way or another (Personal Interviews, 2015). The State has been quick to react to such forms of resistance. For example, rules regulating the process of prior consultation establish that if the representatives of the communities in question “do not respond” to official summons or “refuse to attend” pre-consultation and consultation meetings without justification, after three and two attempts respectively, the relevant authorities may “consider the consultation process concluded” (Presidencia de la República, 2013, p. 11). Still, some government officials continue to complain that prior consultation is time-consuming and costly and poses an ‘obstacle’ to Colombia’s development (G. A. Rodríguez, 2013).

Given that the Colombian government does not offer its citizens (even ethnic communities who supposedly have special protections) genuine legal recourse through which to defend their lands and territories, it is not surprising that resistance often takes the form of direct actions such as roadblocks and sabotage. The authorities and mainstream media habitually berate peasants and indigenous movements for resorting to such means, without recognising that they have few alternatives. In the 1990s the brutality of the oil industry and the legal system that sustains it gained national and international media attention when the U’wa people threatened collective suicide after struggling to prevent the occupation of their ancestral lands via official channels (Hill, 2014).

In sum, mining and oil companies are unable to rely on voluntary transactions to obtain the land necessary for their investments. The extractive development model *requires* dispossession and displacement. And the Colombian State has satisfied mining and oil



investors' requirements by giving priority to these sectors – allegedly, in the name of 'public utility and social interest'. This reality contrasts with the dominant discourse discussed in Chapter 2, which claims that land markets based on well-defined property rights provide for economic growth. While property rights in land may well be a necessity of capitalist development, so too are their violation and restriction.

*Challenging the extractive model via popular consultations and municipal regulatory power*

On the whole, successive central governments have provided almost unqualified support for the mining and oil industries. However, the Colombian State is not monolithic. Functionaries of the National Comptroller's Office, for example, have publicly expressed concerns about the prioritisation of mining operations, and while Constitutional Court judgements have served to enable specific projects, they have also blocked others. Recent controversies surrounding attempts to prevent mining and oil projects at the municipal level elucidate the divisions and conflicts between different government entities and actors. This subsection further illustrates mining and oil companies' dependence on State coercion, but also indicates the contradictions that result. As argued by Welford et al. "states never operate with one voice"; the paragraphs below respond to these authors' appeal for analyses of "land deals" that "unbundle the state" and "see government and governance as processes, people and relationships" (Welford et al., 2013, p. 189).

In the 2010s, environmental activists discovered a tool for opposing mining and oil projects that had been lying dormant in the text of the 1991 Constitution: the municipal popular consultation (Rubiano, 2017). The previous subsection discussed the denial of legal recourse to individuals, families and indigenous/Afro communities who wish to prevent oil or mining operations on their lands. The popular consultation offers a route to challenge the extractive development model collectively at the municipal level.

On July 28<sup>th</sup> 2013, inhabitants of Piedras (Tolima) voted in a popular consultation, the first of its kind to be carried out in Colombia: the question, in brief, was whether they agreed with mining activities being carried out in the municipality. 2,971 people voted no; 24 voted yes (El Nuevo Día, 2013). Piedras was one of various municipalities targeted by AngloGold Ashanti's gold mining project La Colosa. The name -derived from colossal- is fitting; the mine would have been the largest gold extraction operation in Colombia and perhaps in South America (Celedón, 2014b). 'Would have been' because in April 2017 the multinational firm announced that it was suspending the project after *another* popular consultation in

Cajamarca – the municipality that was to be the centre of the mine’s operations (Portafolio, 2017). It is worth describing briefly the conflicts that preceded this decision.

Following the unprecedented events in neighbouring Piedras, a group from Cajamarca started petitioning for a popular consultation in their own municipality. This was initially denied, after various government functionaries (from the Ministry of Mining and Energy, the Ministry of Interior and the Attorney General’s Office) threatened investigations against municipal councillors who backed the consultation. The citizen’s committee promoting the vote started collecting signatures in order to gain approval from the National Registry – apparently as a way of pressuring or circumventing local authorities (Monsalve, 2017; Rubiano, 2017).

Activists had to work amidst constant threats and intimidation (Rubiano, 2017). For example: in mid-2013 the (neo)paramilitary group, the ‘Rastrojos’, circulated threats against anyone who opposed the entrance of multinationals in the area. In November that year unknown assailants attacked a vehicle carrying a government commission sent to study the overlap between AngloGold Ashanti’s mining titles and the regional *páramo* ecosystem (mining and oil operations are prohibited in the *páramos*, which supply 70% of the country’s drinking water<sup>98</sup>); the driver died from his injuries. A week later, gunmen murdered César García Moreno, a vocal critic of the Colosa project (Canal 1, 2013). *At least* two other campaigners were also killed (Silva Numa, 2016). Nevertheless, the group pressed on. Meanwhile, people in other municipalities also started organising.

Investor interests and the State’s development model were clearly under threat. Representatives of the extractive industries and their allies in government and media claimed that popular consultations were not binding and that municipal authorities had no power to decide the fate of mining and oil operations. But in May 2016 the Constitutional Court (in a close decision: 5 to 4) overruled Article 37 of the Mining Code, which barred local and regional authorities from rejecting such projects in the territories under their jurisdiction. In other words, the decision affirmed that mayors and local councils could indeed prevent mining investments (since clearly the exploration and exploitation of the

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<sup>98</sup> The prohibition was introduced in February 2010. The central government attempted to skirt the rule by adding an article (No. 173) to the National Development Plan, which allowed for the continuation of projects with a concession contract and an environmental licence granted prior to February 2010 in the case of mining or June 2011 in the case of oil projects. The Constitutional Court overruled this article in February 2016, reaffirming the prohibition (El Espectador, 2016). The National Ombudsman’s Office had warned that “22 *páramos* were at extreme risk of disappearing due to the impacts of mining” (cited in: ABColombia, 2012, p. 7).



subsoil affects the use of the soil, which is subject to regulations decided at the municipal level as in Article 313 of the Constitution), against the will of the national government (El Tiempo, 2016b; Monsalve, 2017).

In August 2016, the municipal Council of Cajamarca voted in favour of carrying out a popular consultation, but it was postponed twice – in the second instance due to a legal petition (*tutela*) that AngloGold Ashanti lodged with the State Council. The State Council claimed that popular consultations would impact future decisions but could not affect *existing* concession contracts. Still, the consultation was carried out on March 26<sup>th</sup> 2017 - 97% of 6,296 voters expressed their opposition to mining operations in Cajamarca. Just a day later, the Minister of Mines and Energy announced that the project could go ahead despite the vote against it. But, as noted above, AngloGold Ashanti opted to suspend its operations (El Espectador, 2017a; Monsalve, 2017; Montaña, 2017).

In addition to Piedras and Cajamarca, seven other municipalities held popular consultations in which an *overwhelming* majority of inhabitants voted against oil and/or mining operations<sup>99</sup>. As of June 2017, another 44 municipalities were in the process of organising consultations (El Tiempo, 2017a). However, the organisers face numerous obstacles. In Macarena and Granada (Meta) the consultations were cancelled after the Ministry of Finance refused to assign the necessary resources for the vote. The Governor of Meta and the Mayors of Macarena and Granada were in favour of the consultations; the Mayor of Granada even presented a legal demand (*tutela*), requesting funding for the voting process (El Tiempo, 2017b, 2017c). Two municipalities in Santander were also forced to cancel planned consultations for similar reasons (Rey, 2017).

At least five other municipalities have placed prohibitions on the mining and oil industries through agreements approved directly by the municipal councils<sup>100</sup> - perhaps because they expected a popular consultation to be hindered by the central government. However, this channel is also being undercut. The Administrative Tribunal of Antioquia

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<sup>99</sup> Tauramena (Casanare), Cumaral (Meta), Cabrera (Cundinamarca), Arbeláez (Cundinamarca), Pijao (Quindío), Jesús María (Santander) and Sucre (Santander) all rejected mining or oil operations -with over 90% of the votes- through popular consultations. Six of these votes were held in 2017.

<sup>100</sup> The Councils of Concordia, Jericó, Támesis and Urrao (municipalities of Antioquia) all approved agreements to prohibit mining in their respective municipalities (Caracol Radio, 2017). The Municipal Council of Neiva approved an agreement to prohibit the exploitation of hydrocarbons and precious metals around the River Las Ceibas specifically (El Tiempo, 2017d).

declared one of these agreements invalid and put the rest into question, arguing that “it is not possible to prohibit mining activities via municipal agreements” (Caracol Radio, 2017).

Summing up: citizens’ groups and allied local authorities are using tools provided by the Constitution to prevent dispossession and other ills associated with mining and oil operations. Effectively, the economic model is being challenged via participatory and local democracy and this has caused conflicts and divisions within the State. Representatives of the mining and oil industries have pressured for a particular interpretation of the law that would shut this opposition down. However, the Constitutional Court ruled that municipal councils’ regulatory powers could affect the use of the subsoil. Still, a regional Tribunal appeared to contradict said ruling and the State Council insisted that municipal decisions could not undermine existing concessions. Meanwhile, the central government blocked popular consultations using various tools including the denial of funding and mining companies started lodging their own legal battles - the details of which could not be considered here. As mentioned previously, the events described above can be interpreted as upholding or threatening the rule of law depending on the interests and values of the observer; this illustrates the malleability of the concept and why blaming dispossession on a ‘weak rule of law’ doesn’t provide much insight into the issue.

*Anti-democratic international investment law: commanding dispossession and displacement*

Representatives of the oil and mining industries have been complaining loudly about “juridical uncertainty” (El Colombiano, 2017a), putting pressure on the central government, which is desperate for investor approval. The State faces losses more tangible than the country’s reputation as an ‘investment destination’. Colombia is party to 16 free trade agreements (FTAs), many of which include investor protection clauses, giving companies a right to sue the Colombian State for multiple reasons.

The US firm Hupecol has already instigated legal proceedings against Colombia, demanding 83,000 million COP (around 28 million USD) as compensation for the withdrawal of an environmental license it had obtained for exploring oil in La Macarena. The majority of this sum is composed of money the firm *hypothetically* could have made if the project had gone ahead; just 20,881 million COP corresponds to the loss of investments already carried out. Hupecol initiated the process within the Colombian legal system but plans to bring the case to international arbitration on the grounds of FTA violations. The environmental licensing agency withdrew permissions after a public uproar due to the risks

posed to the legendary Caño Cristales river (El Espectador, 2017c). Eco Oro Minerals also announced that it would sue the Colombian State through international arbitration under the FTA with Canada, after the Constitutional Court reaffirmed the prohibition of mining within the country's delicate *paramo* (see earlier footnote) ecosystems (W Radio, 2017).

Cosigo Resources Ltd (Canada) and Tobie Mining and Energy Inc (USA) have apparently already sued the Colombian State for 16,500 million USD on the grounds that it 'expropriated' a mining title in the Yaigoje Apaporis National Park. Indigenous groups initially opposed the conversion of their lands into a National Park (some still do), but many eventually solicited its establishment because they saw it as the only way to prevent mining within their ancestral territory. Two days after the area was given National Park status by one government entity, another granted the 'Taraira Sur' mining concession currently under dispute (Semana, 2017).

If the Colombian State respects the outcome of popular consultations and municipal authorities' power to prohibit mining and oil exploration/exploitation, the number of legal proceedings against it are likely to multiply. It essentially faces a choice between: (a) officially overruling municipal authorities and/or the popular vote and thus undermining its democracy and its own laws as laid out in the Constitution; (b) accepting the law suits and, if the rulings are unfavourable, paying the ordered compensation – which given the sums could amount to near bankruptcy; or (c) refusing payment (withdrawing from FTAs) and risking being ostracised by the global capitalist 'club'. In brief, international investment law may effectively compel signatory States to dispossess and displace their own citizens on behalf of investors. The outcomes of the interconnected conflicts described in the previous and present subsections is still uncertain. However, the Colombian government appears to be leaning towards option A; demonstrating "the capacity [of economic force] to shape unconstitutional -and so effectively illegal- legislation" (Coleman, 2018, p. 13).

### **Summary and conclusion**

The 2010s in Colombia have been marked by massive and repeated social mobilisations. These mobilisations were hugely diverse but struggles against dispossession came to the fore. This was clear during the Agrarian Strike of 2013, which united varied groups and led to the formation of a national movement: *Cumbre Agraria Campesina, Étnica y Popular*. Cumbre (for short) developed a list of demands including: policies to strengthen the peasant economy; the effective restitution of lands usurped in the context of the armed conflict; the

recognition of *campesino* rights to collective territory and prior consultation; the exclusive titling of State lands to peasant, worker, Afro and indigenous populations; and a moratorium on mining and oil concessions until a new policy is in place that gives those affected the power of veto – among many other things. The overarching theme is a call for an entirely new development strategy (“*la economía propia contra el modelo de despojo*”), specifically one that is not based on dispossession and displacement (‘Pliego de exigencias de la Cumbre Agraria’, 2014). The Cumbre’s proposals point to the *multiple* enabling factors that give rise to dispossession and the different forms this can take – issues highlighted in this chapter.

I examined six main developments, which have shaped the political economy of land and dispossession in Colombia since the late 20<sup>th</sup> century: (1) economic restructuring in the context of neoliberal globalisation; (2) the rise of the illicit drug economy; (3) the intensification and paramilitarisation of the armed conflict; (4) the remaking of land legislation in light of the 1991 Constitution; (5) the resurgence of government and investor interest in agro-industry and the associated counter-reform; and (6) the growth of the mining and oil sectors, which have become central to the State’s economic strategy. Broadly, I showed how specific trajectories and visions of economic development have influenced the prevalence and character of dispossession in contemporary Colombia.

The shift towards export-oriented growth and away from ISI-style policies had multiple implications for dispossession. These new development strategies are at least partially to blame for the growing weight of the mining and energy sectors within the Colombia economy; and these industries don’t just profit from dispossession, they rely on it, as argued in section 6. Economic liberalisation intensified pressures to secure additional foreign exchange, which exacerbates dependence on mining and oil extraction since these account for the majority of export earnings and FDI. The promotion and growth of the extractive industries not only shapes State-backed dispossession, but also that executed ‘illegally’, as shown in Chapter 8. The lifting of trade barriers also set in to motion widespread market-led dispossession, which in Colombia ‘supplements’ land accumulation achieved via extra-economic force.

While elite-led dispossession for large-scale agriculture is not a new phenomenon in Colombia, economic restructuring has moulded these processes and practices, as policy changed to the promotion of agro-exports. These types of policies have been in place since at least the 1990s; however, they received a boost following the rise in global agricultural commodity prices in the mid-2000s. The government’s growing obsession with turning Colombia into an agroindustrial powerhouse has influenced the dynamics of dispossession

effected by private agents in a number of ways. Subsidies and other types of support have incentivised and facilitated usurpation. The fact that many of the land-use changes brought about by dispossession are compatible with the State's development strategy arguably weakens resolve to address the issue. Put differently: even if the central government doesn't endorse the means, it certainly endorses many of the outcomes. This stands in contrast to the early 20<sup>th</sup> century, when policymakers were concerned not only with the conflicts generated by dispossession, but also the negative effects it was having on the broader economy, which at the time was sustained by smallholder agriculture.

The government's agro-industrial development vision has also influenced the legal context surrounding dispossession, since it is a key motivation behind ongoing legislative counter-reform. As explained in section 4, Law 160 of 1994 introduced a number of rules that should have prevented elite groups from benefitting from dispossession, as well as predatory and opportunistic land purchases in the aftermath of violence. Had the law been applied, they wouldn't have been able to profit from the removal of *campesinos* from State lands, since these were declared imprescriptible and could only be titled to peasants of scarce resources. Likewise, had the restrictions on parcels granted by INCORA/INCODER (via titling and redistribution programs) been enforced, this would have blocked elites from profiting off the displacement of people from these 'reform lands'. Hence, the legislative counter-reform described in section 5, which aims to revoke these rules, not only threatens to legalise unlawful land accumulation achieved through voluntary market transfers, but also facilitates the legalisation of land concentration accomplished using violence. Nevertheless, I argue against attributing dispossession, even that effected by private agents, to a weak rule of law, for reasons discussed earlier in this chapter and in Chapter 2.

The confrontations between different government entities -such as the Comptroller Office's public critique of the Santos administration's interpretation of land legislation and diverging views among government officials regarding the extent of municipal authorities' regulatory powers and whether these can affect mining and oil interests- are noteworthy, since they point to the fallacies of the liberal rule of law concept by showing the legal realm to be a site of struggle. They also serve as a reminder that the law can be used to enforce/legitimate dispossession and to prevent it, depending on power dynamics between different groups and the government, but also within the State itself, which is not unitary.

This chapter also suggests that the armed conflict-dispossession nexus is more convoluted than is usually implied. Violence has certainly been a key enabler of land grabbing in Colombia. However, in addition to all the other enabling factors described above, we also need to take account of the *specific dynamics* of the Colombian conflict over the last three decades, in particular the expansion of paramilitary forces, which were allied with elite groups and the army. Arguably, it was these alliances specifically that enabled and (especially in the former case) encouraged the dispossession carried out by paramilitaries. The particularities of counter-insurgency warfare, which targets 'subversive' civilians, must also be brought into the analysis. The demobilisation process transformed but did not eliminate paramilitarism in Colombia. Paramilitary successor groups defend land claims acquired through force in previous decades and have orchestrated new processes of dispossession. They also continue to support the violent repression of social movements, including organised resistance to large-scale (especially mining and oil) investments backed by the State's taking powers.

Finally, land pressures in Colombia have been aggravated by narcotraffickers' custom of acquiring large estates in order to launder their profits, store and accumulate wealth (adding to the historical problem of speculative acquisitions), and to facilitate their business operations. However, as explained above, the narco land rush of the 1980s should be distinguished from the para-elite land grab (which is also connected to the illicit drug economy but cannot be reduced to this) that escalated in the decade that followed.

## **The para-elite land grab and opportunistic/predatory land accumulation in the conflict-context**

The previous chapter painted the context necessary for understanding and explaining dispossession in contemporary Colombia. I placed special emphasis on the country's trajectory of development and related policies, in particular the promotion of large-scale agroindustry and the mining and energy sectors. With this contextualisation in place, the present and subsequent chapters provide a bird's eye view of dispossession and related displacement in Colombia during the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. Here, I discuss the usurpation imposed by the para-elite, as well as grey-area market transactions facilitated by the conflict-context. In the final chapter, I examine dispossession for investments backed by the State's taking powers. One of my main objectives in both chapters is to identify varied forms and mechanisms of land dispossession, which I believe is valuable in its own right, but also helps illustrate *how* these processes actually occur and provides support for some broader claims and arguments, as explained in the ensuing paragraphs.

The first section analyses the dispossession imposed by the paramilitaries and their allies - what I call the para-elite land grab. First, I argue that counterinsurgency is partially constitutive of agrarian counter-reform and that the para-elite land grab represents a transformation of pre-existing processes and practices, rather than an aberration of the armed conflict. Second, I describe the network of actors without who the para-elite could not have operationalised the land grab. One of my aims is to draw attention away from the *armed* participants and demonstrate why contemporary dispossession in Colombia does not fit well with stereotypical understandings of wartime plunder. Finally, I show that the land use changes brought about by this dispossession have been compatible with the State's development model and how government policies incentivised and enabled dispossession.

The second section examines the different mechanisms of dispossession exploited by the para-elite, helping to demonstrate *how* land grabbing was actually effectuated. I focus especially on the various methods used to legalise and legitimate land usurpation and develop a sort-of typology to this end. This serves to bolster the arguments put forward in section one and earlier chapters. It further illustrates the importance of non-armed actors in facilitating dispossession and that the para-elite's 'social capital' was just as vital, if not

more, as brute-force in effecting dispossession. Above all, it shows how land grabbers exploited the property rights regime, rather than a collapse of these rules and institutions, and thus serves to challenge general claims about dispossession in conflict-contexts that suggest this is due to institutional break-down. It also reveals why access to formal titles is insufficient protection against 'illegal' land grabs and why certain rules and policies, which should have prevented dispossession or at least certain groups from benefitting from such processes, failed to work in practice.

The third section considers opportunistic and predatory land accumulation in which investors profited from displacement by purchasing abandoned lands at clearance prices. Here I refer to land acquisitions that fall within the middle of the continuum between coercion and consent. Distinct from the para-elite land grab, in such cases, the buyers were neither the material nor the intellectual authors of the violence from which they benefited. Nevertheless, these were not genuinely voluntary transactions either since people were compelled to sell their land precisely as a result of their displacement. I explain how unequal power relations and structural inequalities shaped this land concentration in the context and aftermath of violence; this includes the mutually reinforcing relationship between this land accumulation and the State's vision and policies of economic development.

### **1) The para-elite land grab**

The paramilitaries and their elite allies have been the most important agents and beneficiaries of violent land grabs in Colombia over the last three decades. This assertion is supported by qualitative evidence, from government reports and court proceedings to NGO and academic publications. Although no one knows exactly how many people were affected, several high-profile cases suggest that the numbers directly dispossessed by the para-elite are, at minimum, in the tens of thousands and that they have mostly been *campesinos*. Medium and large landowners have not been immune from dispossession, but there is clearly a class dimension to the phenomenon. As indicated in the previous chapter, quantitative studies suggest land concentration in Colombia has increased since the 1980s; this is at least partially an upshot of the bloody counter-reform imposed by paramilitary groups and their associates.

Land grabbing in Colombia is often treated as a problem reducible to the actions of illegal armed groups. Certainly, paramilitaries often acted of their own accord, stealing land for use by their squadron and for personal enrichment or that of their friends and families.



However, they also acted on behalf of wider economic interests. Some commanders were themselves businessmen or large landowners; in other cases, elites actively participated as unarmed members of regional paramilitary organisations; and finally, a significant number of companies and individual profiteers made agreements with the paramilitaries (see Quinche, 2016; Vargas Reina, 2016b, 2016a; CNMH, 2012c; Grupo de Memoria Histórica, 2010). Hence, the term ‘para-elite’ highlights the links between the dispossession imposed by paramilitaries and the economic/political interests and power of a particular social class.

Indeed, Gutiérrez and Vargas found that paramilitary groups “organically articulated” with “rural elites”<sup>101</sup> consistently used violence or threats to appropriate land and that land grabbing was much less common among units lacking this characteristic. Recall that the AUC was an umbrella organisation that encompassed various regional groups with different origins and characteristics. Gutiérrez and Vargas determined that differences between paramilitary units account for significant variations in the intensity of land dispossession. Their qualitative comparative analysis uncovered three “rules” that explain this variation. The first rule, put simply: *all* paramilitary units that included or made pacts with individual elites or economic interest groups frequently committed acts of usurpation. Rule two can be expressed as follows: *large* paramilitary units involved in narcotrafficking and other illegal ventures also used coercion to acquire land. Third and finally, the first two rules are contingent on favourable military conditions. Specifically, paramilitary units operating “in territories disputed with the guerrilla” did not usurp land in those areas or did so on a much smaller scale (Gutiérrez Sanín & Vargas Reina, 2016, pp. 8–11).

#### *Violent agrarian counter-reform and the continuation of dispossession by other means*

As shown in previous chapters, the use of violence and fraud to impose, defend and challenge land claims has an extensive history in Colombia. In the words of Gutiérrez and Vargas (2016): “in wide sectors of rural society [... there is] a long-standing tradition of manipulating property rights through coercion, contacts and juridical chicanery” (p. 22).

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<sup>101</sup> The authors are right to emphasise the role of *rural* elites specifically; however, it is worth noting that some of the businessmen and other civilians that collaborated with the paramilitaries were from or lived in large cities. Examples are provided in a recent court ruling against those involved in the usurpation of land in Curvaradó and Jiguamiandó. According to the document, Javier José Daza Pretelt, of the para-enterprise Urapalma, is a graduate in business from Barranquilla; Hernán Iñigo de Jesús Gómez Hernández, who was involved with the same company, lived in Montería and worked as a university teacher; businessman, Gabriel Jaime Sierra Moreno, was born in Medellín and lived there at the time of the trial; and so on and so forth (Juzgado 5to de Medellín, 2014).

And elites have historically relied on hired gunmen and militia groups to defend their economic and political projects more broadly. While the paramilitary phenomenon clearly has particular characteristics due to these groups' links to the illicit drug economy and State-backed counterinsurgency warfare, it also reflects this tradition – albeit in some regions more than others. Furthermore, the origins and execution of counterinsurgency warfare itself must be *partially* understood as constitutive of agrarian counter-reform, as argued in the rest of this subsection.

The insurgency-counterinsurgency dynamic in Colombia is intimately linked to land struggles. As discussed earlier in this thesis, the FARC were born of peasant self-defence forces and took root in areas settled by people dispossessed and displaced during *La Violencia*. The histories of the ELN and the EPL are also intertwined with conflicts over land. Even before the guerrilla take-off, *unarmed* peasant movements demanding land reform were targeted in the State's anti-subversive operations (consider the history of the ANUC, mentioned in Chapter 5). Repression at the hands of government forces intensified in the 1970s and gradually merged with paramilitary violence against the same groups. This contributed to the strengthening and expansion of armed resistance. Nevertheless, it should be emphasised that the relationship between the guerrilla and *campesino* communities or organisations has been varied and complex - ranging from cooperation, to coexistence and outright conflict. Irrespective of their links to the guerrilla, peasants -especially leaders and organised communities- were (and are) routinely attacked by the (neo-)paramilitaries.

In some regions, land occupations were among the list of factors that prompted elites to summon or organise paramilitary groups (see e.g. Semana, 1989a). In others, escalating violence provided an opportunity for landowners to retaliate against *campesinos* for past occupations. Gutiérrez and Vargas (2016) include this “reprisal” factor as one of five possible explanations as to why paramilitary units with close links to rural elites were systematically more likely to usurp land, alongside “knowledge, tradition and institutions” briefly mentioned above, “incentives” and “possibility” discussed below, and “opportunistic violence” enabled by “organizational laxity” (pp. 18-24).

Land reform beneficiaries in general (regardless of whether they had participated in occupations) were among the main victims of the para-elite land grab, especially in northern Colombia (Grupo de Memoria Histórica, 2010, pp. 129–144 and 269–271; Quinche, 2016, pp. 100–108; Vargas Reina, 2016b, pp. 70–75). One member of the Metro Block, which mostly operated in east and northeast Antioquia, avowed outright that they were undertaking “a great agrarian counterreform” (Mingorance, 2006, p. 43).

(Ex-)paramilitaries have openly justified the usurpation of redistributed lands, arguing that the guerrilla and their support base, in partnership with the agrarian reform agency, were responsible for the “second great dispossession of the modern era”, following that which occurred during *La Violencia*. Demobilised paramilitary commander Salvatore Mancuso affirmed that the AUC worked to “combat” this “second dispossession” with the “support of the State” and that their fight against subversives “allowed cattle ranchers and *hacendados* [...] to return and recover properties they had abandoned because of the guerrillas’ actions and their infiltration in the INCORA” (Mancuso cited in CNMH, 2012c, pp. 85–86). This discourse, which portrays the dispossessed as usurpers, continues to be reproduced in an attempt to delegitimise the restitution process initiated in 2011.

Paramilitaries sometimes played an auxiliary role, backing elites in long-running land conflicts. Take the case of the marshland (*ciénagas*) enclosures in Sucre and Córdoba. *Campesinos* have lived from these marshlands for decades: combining fishing with -mostly transient- agriculture during the dry season. Since at least the 1960s, they have been struggling against large landowners who assert private ownership or control over these public lands<sup>102</sup>. ‘Traditional’ elites and -later- narco-traffickers have continually expanded their property claims, converting communal wetlands into private drylands by installing pumps and other drainage systems and erecting electric fences. They deliberately flooded or let cattle loose on the *campesinos*’ crops, hired gunmen to intimidate residents and got local authorities to carry out evictions on their behalf. From the late 1980s onwards, these tactics were increasingly combined with paramilitary violence. Many *campesinos* fled, facilitating the ongoing enclosures (Grupo de Memoria Histórica, 2010, pp. 144–155).

The above example, and many others, illustrate the transformation of previous processes and practices of dispossession and the importance of locating the para-elite land grab in the context of historical struggles over land. It also reveals that the armed conflict-dispossession nexus is more convoluted than is often implied. Arguably, it was the particularities of counter-insurgency warfare in Colombia, rather than some general phenomena that are presumed to occur with conflict-contexts (such as the breakdown of law and order or a generic increase in criminal behaviour), that shaped dispossession. Further evidence for this point is provided in the subsequent subsection.

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<sup>102</sup> Law 160 of 1994 prohibits the privatisation of communal floodplains and similar areas; however, elites have managed to circumvent these rules (Grupo de Memoria Histórica, 2010, pp. 146–148).

*Beyond 'illegal' armed actors: the para-elite land grabbing network*

The paramilitaries and their elite allies were absolutely dependent on wider contacts and alliances to operationalise the land grab (Gutiérrez Sanín & Vargas Reina, 2016; Ballvé, 2013; Grajales, 2013, 2011; CNMH, 2012c). As argued by Grajales (2011), the paramilitary's "role in securing some people's property rights and denying others is not merely extra-institutional. It is supported by large bureaucratic and political networks that allow the legalization of profits from violence" (p. 771). Local and regional elites were able to legalise the theft and then physically defend these land claims with the help of varied government functionaries; this is what Gutiérrez and Vargas refer to as the "possibility" factor (pp. 18-21). This subsection helps demonstrate why simplistic notions of wartime plunder are inadequate for explaining and understanding violent land dispossession in Colombia.

Ex-paramilitary commanders themselves have claimed that the "armed structures" were simply "the tip of the iceberg of the paramilitary phenomenon". In order to truly understand "land accumulation, usurpation and concentration of agrarian property, violence and displacement in the countryside, and the resulting social injustice against the peasant", they explain, it is necessary to look below the surface and examine the role of other actors, including: "politicians, businesspeople, high-level functionaries, large contractors, foreign investors and members of the Armed Forces" (communication with President Santos from 2011, signed by Freddy Rendón Herrera and seven other ex-paramilitaries, cited in CNMH, 2012c, pp. 88-89). Four broad groups were central to the network that facilitated the para-elite land grab; in what follows I provide an overview of each, explaining their specific roles.

(i) An unknown number of *politicians* were complicit, whether directly or indirectly, in the para-elite land grab. As of 2012, more than 450 regional and local politicians, plus 200 congress men and women, were under investigation or had been charged for crimes relating to 'para-politics' (Verdad Abierta, 2012c). The alliance between politicians and paramilitaries was a significant enabler of land dispossession in the basic sense that it was one among various factors that allowed the latter to continue operating. For example: mayors (whether under threat or of their own volition) promised not to expose the paramilitaries, ensured combatants could be treated at local hospitals, guaranteed the cooperation of local police forces, and helped channel public money to the unit and/or commanders (Gutiérrez Sanín, 2015a, pp. 137-144).

The alliance between politicians, paramilitaries and their elite sponsors deterred the dispossessed from making formal complaints, as exemplified in this excerpt from a news article: “In El Dorado [Meta] nobody dared to denounce [what was happening] since the paramilitaries themselves confessed that they relied on the complicity of the -then- Mayor Euser Rondón [...] some of the meetings between politicians and paramilitaries took place in the Casa Roja and Azul farms, which kept growing in size with [the addition of adjacent] lands usurped by the Centauros” Block (cited in Barrios & Vargas Reina, 2016, p. 166). There are similar accounts from elsewhere in the country (Personal Interviews, 2015; Grupo de Memoria Histórica, 2010).

Para-politicians also intervened more directly in the dispossession process. For example, they helped secure funding and other types of support for projects operating on stolen land, organised meetings with other actors involved in legalising dispossession, and even put pressure on the displaced to sell their lands. In a number of cases, politicians and/or their family members were the direct beneficiaries of dispossession and more generally part of the para-elite that enacted the land grab (CNMH, 2012c; Verdad Abierta, 2013b; Quinche, 2016; Barrios & Vargas Reina, 2016; Vargas Reina, 2016b; Gutiérrez Sanín, 2015a, p. 145 and 150; see also news reports on investigations against politicians for involvement in land dispossession - for example: Caracol Radio, 2011a; El Tiempo, 2013b; El Meridiano, 2017; Dinero, 2017).

Mayors and functionaries of the Mayor’s offices have been able to support the usurpers in very specific ways, given their responsibility for ordering evictions. There are multiple cases in which displaced communities or families obtained judicial sentences in their favour, but local authorities refused to implement orders to evict the current occupants; and/or they accepted the usurper’s petitions and authorised evictions against displaced persons who had returned to their lands (CIJP, 2008, 2012a, pp. 5–8, 2016, p. 25 and 47; Ayola, 2015; Vargas Reina, 2016a, p. 141; El Colombiano, 2017b).

There are suggestions that members of congress also used their *specific* powers as legislators to facilitate the para-elite land grab, by putting forward and voting for policies that favoured the beneficiaries of dispossession. Examples include: a law to bolster the bio-fuels sector and other subsidies for large-scale agriculture, the defunct Rural Development Statute, the Forestry Law (also declared unconstitutional) and the elimination of UAF land ceiling rules. However, at present research on this topic is insufficient to make categorical claims (CNMH, 2012c, pp. 136–137). In general, knowledge of the role politicians played in paramilitary-backed dispossession is still relatively limited.

Here I briefly describe just one case of politicians' involvement in the para-elite land grab. In 2011 Óscar de Jesús López Cadavid, ex- congressman and Governor of Guaviare, was sentenced to seven years in prison for 'conspiring' with the paramilitaries. In addition to other crimes, judges found that López acquired a farm that paramilitaries had commandeered from the original owner using violence and threats. A few years later, in 2014, the authorities seized 491 assets belonging to the ex-politician and his cousin Nebio de Jesús Echeverry Cadavid, also ex-Governor of Guaviare. The two ex-governors are said to have "amassed this fortune thanks to their alliance with the paramilitaries and with criminal gangs following the demobilisation of the AUC" (El Tiempo, 2014a). Among the seized assets were dozens of rural properties "occupying thousands of hectares of the most productive land in Guaviare, Meta, Arauca and Guanía", some of which are said to have been "appropriated [...] from peasants displaced by the paramilitaries and the 'Erpac' gang" (*ibid*; see also Barrios & Vargas Reina, 2016, pp. 167–168).

(ii) *Members of the Armed Forces and police* had their own role in the para-elite land grab. Not only did they fail to protect people from being uprooted and from losing their lands; the Armed Forces often permitted by omission, collaborated with, or even directly participated in operations that caused displacement and enabled dispossession. Furthermore, as with para-politics, the links between government forces and the paramilitaries have also hindered denunciation; consider the implications of filing a complaint with the police if you know they are in the pocket of your victimisers (Personal Interviews, 2015; see also Grupo de Memoria Histórica, 2010, p. 186). Quinche (2016), for example, documents how in some areas of Magdalena "the public forces were in favour of the figureheads and demobilised" paramilitaries involved in usurpation (pp. 96-97).

In some cases, government forces intervened more directly in land grabbing. The dispossession of the Curvaradó and Jiguamiandó communities is a clear example: the army (1) participated alongside the paramilitaries in various operations that led to the displacement of inhabitants from their collective territories (2) provided security for the usurpers and their palm crops/logging operations, (3) actively prevented the return of the displaced to their lands, and (4) were involved in pressuring community members to sell their land or generally accept the occupation (CIJP, 2005; Juzgado 5to de Medellín, 2014).

(iii) *Notaries and registrars* and other functionaries of Notary and Public Records Offices have played a key role in legalising dispossession, due to negligence and/or collusion. Notary Offices are in charge of drawing up public deeds; the legal document through which property rights are transferred. They are responsible for verifying the

authenticity of the documents from which a new deed is derived. Notaries also authorise power of attorney (POA) documents, which allow lands to be transferred without the seller or buyer being present. Public Records Offices, in particular the registrars, are responsible for the national land register (without registration a deed or titling resolution does not confer property rights): updating existing property folios with ownership transfers, restrictions, or clarification of boundaries, and creating new folios when properties are subdivided, merged, or if the land in question does not yet exist on the register. So, notaries and registrars are central actors within the Colombian property system and their actions (e.g. creation of false deeds or bogus POA documents, registration of fake titling resolutions) or inactions (e.g. failure to double-check the authenticity of relevant documents) were vital to the para-elite land grab.

Registrars also contributed (knowingly or not) to dispossession by failing to enforce laws designed to prevent it. It is worth explaining the land protection system briefly. Law 387 of 1997 ordered the INCORA to establish and administer a register of forcibly abandoned lands (RUPTA); among other purposes, the register is supposed prevent transactions not authorised by the original landholder - whether he or she is legally deemed an occupant, possessor or proprietor of the land in question<sup>103</sup>. In practice, this system of land protection has not always shielded against dispossession *partly* because registrars either failed to make the required annotations in the folios in the first place or registered public deeds or titling resolutions affecting lands that were supposed to be protected *without the required authorisation* (SNR, 2011e, 2011c, 2011a, 2011b).

*As of 2011*, 70 to 80 notaries from across the country were under investigation for facilitating dispossession (El Tiempo, 2011c). And the ex-Superintendent of Notaries and Registries recounted deposing 90 functionaries, including registrars, for corruption *between 2011 and 2017*, 15 of who have been detained (cited in H. M. Cárdenas, 2017). I have not found any comprehensive data on how many such functionaries have been found guilty or are *still* under investigation for their involvement in the para-elite land grab, but media and government reports from different years suggest it is *at least* a couple dozen (El

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<sup>103</sup> Land abandonment can cause loss of legal rights. Gaining title over private lands through prescription, for example, demands uninterrupted possession. Though the rules pertaining to *baldíos* differ (State lands are imprescriptible), proof of long-term occupation is a requirement for titling. Similarly, titling resolutions for State lands may be revoked if the beneficiary abandons the plot. Technically, these rules should not apply if the landholder was displaced and thus *forced* to abandon the land. Inclusion in the official register (RUPTA) is a form of proof that abandonment was due to force majeure.

Tiempo, 2015b, 2012a, 2006c; El Espectador, 2012; SNR, 2011a, 2011c; Fiscalía General de la Nación, 2014, pp. 9–11; Canal 1, 2017). It should be said, some functionaries may have assisted the para-elite under threat; indeed, a number of registrars have been murdered or forcibly displaced after refusing to cooperate with the paramilitaries (El Tiempo, 2006b).

(iv) *INCORA and INCODER* functionaries also abetted the legalisation of dispossession in a number of ways. They pushed through irregular titling resolutions for State lands or helped forge bogus ones. They also revoked genuine titling resolutions belonging to the displaced and reallocated the land in question to paramilitaries and their allies. Such practices have been documented in diverse locations, including: Meta, Antioquia, Chocó, Sucre and Magdalena (SNR, 2011b, 2011a, 2011c). There are indications that a few dozen INCORA/INCODER functionaries were involved in the racket. A news report *from 2010*, titled “the para[military] take-over of INCODER”, affirms that the institute deposed 26 functionaries and suspended 11 in the space of just three years, and was investigating another 53 (El Tiempo, 2010). At least 18 functionaries and ex-functionaries of INCORA and INCODER have been captured under orders of the Public Prosecutors *since 2011* (El Espectador, 2011, 2014b; El Universal, 2016a).

(v) *Other actors* that facilitated or are accused of collusion in land dispossession include: employees of the Colombian Agricultural Institute (ICA) and the state-backed agricultural fund (FINAGRO); functionaries of the regional environmental corporations (CorMagdalena, CodeChocó and CorpoUrabá) in charge of evaluating, controlling and monitoring the ecological impacts of economic activities within their jurisdiction; bankers and lawyers; and -of course- individual investors and businesses (Caracol Radio, 2011a; El Tiempo, 2012a; CNMH, 2012c; Quinche, 2016, p. 102). Examples of involvement of the latter group, as members of the para-elite or as secondary participants in the land grab, are provided below and in the subsequent chapter. Here I want to highlight the enabling role played by different functionaries - in this case from the environmental authority of Chocó. Paramilitary-backed palm oil businesses started clearing thousands of hectares of protected forests and constructing drainage channels in the territories of Curvaradó and Jiguamiandó (lands they had taken over by force) without the required permissions, but instead of launching an investigation and taking actions to halt the ecological destruction, Codechocó proceeded to legitimate the usurpation by approving an ‘Environmental Management Plan’. This was in 2004, *after* the Inter-American Court of Human Rights and the Ombudsman’s Office had condemned the displacement and dispossession of the communities who collectively own the affected lands (CIJP, 2005, pp. 108–110 and 134–138).



*Economic ‘development’ policies and violent land grabs: a symbiotic relationship*

Much of the land usurped by paramilitaries was/is used for illicit business operations: to form/control trafficking routes for drugs and weapons, plant coca crops, establish cocaine laboratories, build private airplane landing strips and for unofficial mining operations. Many commandeered farms were also converted into paramilitary bases and training camps (Grupo de Memoria Histórica, 2010, p. 124; Barrios & Vargas Reina, 2016, pp. 165–166; Quinche, 2016, p. 105; Vargas Reina, 2016b, p. 51). However, the interests implicated in the land grabs go beyond the shadow economy and the armed groups’ military objectives.

On the one hand, the usurpers commonly sold the land on to ‘reputable’ businesses and investors for a profit. This usually involved a complex chain of transactions, designed to disguise the history of the plot. Some buyers were unaware of the bloody saga behind the land they purchased, some knew and actively tried to distance themselves from that history, and others were part of the racket. On the other hand, the paramilitaries and their allies were often *directly* involved in establishing economic projects on land usurped from the displaced. Elites had a lot to gain from usurpation, as preferential access to government subsidies and special credit schemes allowed them to put the stolen land to productive use relatively easily. The paramilitaries, for their part, either stood to gain directly from the business venture or benefitted indirectly by nurturing relations with powerful individuals or groups. Gutiérrez and Vargas (2016) call this the “incentives” explanation.

In general, the State’s economic model has incentivised, facilitated and been served by the para-elite land grab (see also Ballvé, 2013; Grajales, 2013, 2011). Demobilised commanders themselves affirmed that one of their objectives was to rebuild the economy and to bring investors to regions that, according to them, were un- or under- developed as a result of the insurgency (see e.g. CNMH, 2012c, pp. 86, 90). A year before his disappearance in 2006, the notorious paramilitary commander Vicente Castaño told reporters: “In Urabá we have palm cultivations. I myself found the businessmen to invest in those projects, which are durable and productive. The idea is to bring the rich to different zones of the country to invest in this type of project. Once you bring the rich to these zones, the State institutions arrive. Unfortunately, State institutions only move these things along when the rich are there” (cited in Semana, 2005). Ironically, this quote signals clearly the State’s bias in favour of elite-led development, which the paramilitaries helped advance.

Here I focus on agriculture and forestry; the subsequent chapter discusses mining, oil and infrastructure projects. Dispossession often resulted in visible land use changes, as natural forests and ‘traditional’ peasant cultivations were replaced by pasture, industrial monocrops and tree farms (CNMH, 2012c, p. 65). Documented cases have involved, for example: cacao, rubber, banana and plantain cultivations (see e.g. CNMH, 2012c; Defensoría del Pueblo, 2007; Vargas Reina, 2016b, 2016a) and above all cattle ranching<sup>104</sup>, oil palm<sup>105</sup> and timber plantations<sup>106</sup>. These are precisely the types of land use that the government has been promoting in discourse and in practice. They match the list of “prioritised products” targeted in the Ministry of Agriculture and Rural Development’s 2006 15-year plan. The declared goals include, among other things: to extend timber plantations from 220,703 to 1,429,613 hectares between 2006 and 2020, to triple the area planted with oil palm, nearly double the number of hectares used for cacao and export plantain and quadruple the rubber cultivation area – over the same period. The document also states an aim to double the number of cattle from just over 25.6 million to 51.4 million ‘heads’, while increasing the average ‘stocking rate’ from 0.65 to 1.3 animals per hectare (MADR, 2006, pp. 20–100). Based on the above figures, it can be deduced that the plan supposes a very slight increase (taking into account the new ‘stocking rate’) in the area used for cattle ranching, from 39.4 to just over 39.5 million hectares – this is particularly remarkable, as explained below.

In order to encourage these land use changes, the 2006 plan established new targeted support measures and the maintenance and/or expansion of existing incentives, including access to favourable government-backed loans (via FINAGRO) and subsidised insurance policies; investment grants and tax exemptions; specially-designed public-funded research; plus assistance with meeting phytosanitary standards, marketing, and other activities aimed at gaining a foothold in international markets (MADR, 2006, pp. 5–18).

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<sup>104</sup> Examples of cattle-ranching on usurped land in: Antioquia (Vargas Reina, 2016b, p. 77), Magdalena (Quinche, 2016, p. 88 and 105), Chocó (Vargas Reina, 2016a, pp. 138–139), Meta (Barrios & Vargas Reina, 2016, p. 164) and Casanare (Verdad Abierta, 2011b).

<sup>105</sup> Examples of oil palm cultivations on usurped land in: Becerril, César (I. Rodríguez & Navarrete, 2017); Mapiripán, Meta (El Tiempo, 2014d; Verdad Abierta, 2012b); Maní, Casanare (Verdad Abierta, 2011b; El Tiempo, 2014d); El Peñón, Bolívar (Ayola, 2015; Verdad Abierta, 2017b); Tibú, North Santander (Uribe Kaffure, 2014, pp. 260–267); Pedeguita-Mancilla, Chocó (Vargas Reina, 2016b, p. 139) and Jigumiandó and Curvaradó (CIJP, 2005), also in Chocó.

<sup>106</sup> Examples of timber plantations on usurped land in: Chivolo, Magdalena (Quinche, 2016, p. 88); Riosucio, Chocó (Vargas Reina, 2016a, p. 138) and Turbo, Antioquia (Vargas Reina, 2016b, p. 73).

Oil palm, cacao and rubber are explicitly targeted by the ICR subsidy scheme (pre-dating this policy document), which offers grants for between 20% and 40% of investment costs, to be discounted from the amount owed on FINAGRO loans. These same crops are also exempt from income tax (*renta líquida*) for ten years after production begins. The biofuels sector benefits from additional tax exemptions and funds for the construction of processing plants. Companies/individuals engaged in the cultivation of export banana and plantain, as well as cattle raising for beef and dairy production are also eligible for special credits and certain types of ICR grants (MADR, 2006, pp. 7–100). In addition to ICR grants, tree plantations may also benefit from the Forestry Incentive Certificate (CIF) initiative, launched in 1994, which includes: subsidies for 50% to 75% of initial investment costs, as well as 50% of maintenance costs between year 2-5 of production, a 30% discount on income tax for firms and individuals who make direct investments in *new* plantations and tax exemptions for incomes derived from “the exploitation of new forestry plantations, including the sawmills linked to these plantations and the sale of carbon capture certificates” (MADR, 2006, p. 13).

There is no comprehensive data on how many projects established on stolen land received State support; however, a quick overview of a few high-profile cases provides an indication of the problem. It is worth noting that different forms of State support not only incentivised and facilitated the implementation of projects established on usurped land; it also provided a veneer of legitimacy to these investments.

Three of the paramilitary-backed palm oil businesses that operated on land usurped from the Jiguamiandó and Curvaradó communities secured FINAGRO-backed loans (between 2001-2005) totalling around 5.2 million USD. One of these firms also obtained ICR subsidies to the tune of an estimated 1.16 million USD (Juzgado 5to de Medellín, 2014, pp. 172, 195, 205, 209, 335–336). Government-backed funding continued for several years *after* public denunciations against these firms appeared in reports by the Inter-American Court of Human Rights and the National Ombudsman’s Office (CIJP, 2005, pp. 115–117).

Similarly, para-businessman Tuto Castro received an estimated 127,000 USD in government subsidies between 2004 and 2006, before and after his demobilisation as a member of the AUC North Block, in particular via the Forestry Incentive Certificate (CIF) initiative, allowing him to establish tree plantations on lands taken from the displaced (El Tiempo, 2012b; see also Quinche, 2016).

Likewise, the Córdoba Cattle Ranching Fund, a company part owned (20%) by government entities, was granted approximately 419,000 USD in CIF subsidies between 2007 and 2009 for tree plantations (Contraloría, 2012, pp. 23–25) established on lands acquired through force and fraud (Fiscalía General de la Nación, 2014, 2015). There are indications that another four tree plantation companies -Procaucho del Norte de Urabá, Caucho San Pedro, La Gironda de Urabá and El Indio de Urabá- entangled with the para-elite, two of which leased stolen land from above-mentioned Fund, also received subsidies (this is implied in a Ministry of Agriculture [document](#) and [report](#)). In any case, government money is implicated since CorpoUrabá (a public entity) is a shareholder in three of these firms, while INCUAGRO (a public-private venture established with loans from the Inter-American Development Bank as part of the Presidency's program to combat illicit crops), is the majority shareholder in all four (Dinero, 2003; Unidad de Restitución de Tierras, 2014, pp. 20–24). The four firms led strategic alliance projects (backed by USAID) organised by the paramilitary NGO Asocomún<sup>107</sup> (Unidad de Restitución de Tierras, 2014; Ballvé, 2013).

In sum, the para-elite land grab served and was served by the government's economic development programs. Interestingly, a lawyer defending someone implicated in the para-elite land grab tried to absolve his client (among other ways) by arguing that the "the government impulsed and stimulated the planting of oil palm in Curvaradó and Jiguamiandó, since this would bring progress to the zone" (Juzgado 5to de Medellín, 2014, p. 84). He noted that INCODER functionaries advised the communities to form 'strategic alliances' with the companies (*ibid*) – this after the usurpers had failed to legalise the occupation by other means. As highlighted above, the para-elite had a vast network of support; arguably, in addition to possible personal interests, some favoured the land grabbers because they saw the resulting land use changes as positive.

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<sup>107</sup> Asocomún was one of a number of paramilitary-backed NGOs that helped advance the para-elite's agenda. Asocomún maintained a veneer of legitimacy and was able to secure contracts, funds and support from diverse institutions such as the Mayor's Offices of Necoclí and Turbo, the national government's Social Action program, the Ministry of Agriculture, the National Learning Service (SENA), among others. The congressman César Andrade, found guilty of para-politics, awarded Asocomún the "Simón Bolívar Democratic Order" in "recognition of its social development work". Asocomún also managed to get one of its projects included in the government's *Familias Guardabosques* program (with the help of another ex-congressman Ramón Antonio Valencia Duque, also found guilty of para-politics), which is endorsed by the UNODC (Unidad de Restitución de Tierras, 2014, p. 19; Verdad Abierta, 2011c). Ironically, Asocomún was founded and run by John Jairo Rendón Herrera, ex-paramilitary commander Freddy Rendón's brother and, according to journalists, himself an "AUC chief". He was wanted in the USA for narcotrafficking and terrorism charges and handed himself over to the Panamanian authorities in 2009 but was repatriated to Colombia after serving just two years. As of 2014, Rendón was said to be 'on the run' (El Tiempo, 2014c, 2011b).

One qualification deserves discussion before proceeding. There are indications that many coercive acquisitions were primarily speculative, especially given that a significant proportion of usurped land was turned into pasture (given the paucity of reliable data, this is difficult, if not impossible, to quantify). As discussed in Chapter 2, extensive cattle grazing is a comparatively low-value land use, which in many regards presents an obstacle to capital accumulation and capitalist development in Colombia. Indeed, Gutiérrez and Vargas (2016) suggest this is one reason that economic policy should not be treated as a key explanatory factor behind violent land grabbing in Colombia: “dispossession can be associated with macro-projects and the dynamics of export economies, but also with other very backward [dynamics...] like extensive cattle grazing” (p. 3).

Nevertheless, I see this as a qualification and not an objection to my overall argument for three main reasons. First, speculative land accumulation, despite posing an obstacle to economic growth, is a feature of many capitalist economies (hence the contradictions emphasised in Chapter 2), which arguably is accentuated by financialisation and neoliberal land regimes. Second, as discussed earlier, the Colombian government continues to subsidise and encourage cattle-ranching and sees beef and dairy as key potential areas of export growth (see also El Tiempo, 2001b). State officials have been pushing to open further foreign markets (e.g. seeking authorisation from Israeli and Chinese sanitary officials) for beef producers (El Espectador, 2018b). So, despite being comparatively ‘inefficient’, cattle ranching is part of the State’s export-driven growth strategy. Third, arguably, it is partially because the government has been unwilling to tackle inefficient land use and speculative hoarding by elites that land pressures from other sectors get passed onto smallholders. Consider the Ministry of Agriculture’s plan cited above: it might have proposed incentives to convert huge cattle haciendas into tree plantations or agribusiness estates, but it actually suggests that total pastureland should increase very slightly, albeit used more intensively. On the whole, then, the fact that a significant proportion of usurped land is/was used for cattle grazing does not undermine my claim that the Colombian governments’ economic policies have incentivised, facilitated and been served by violent land grabs.

## **2) Mechanisms of dispossession: displacement, legalisation and land laundering**

This section describes and disaggregates various mechanisms of dispossession. It starts with a brief explanation of the role of forced displacement and then focuses on the various methods used for legalising or otherwise legitimising land theft. The then Superintendent

of Notaries and Registries, Jorge Enrique Vélez, discovered more than “65 juridical tricks” used in the land racket (cited in H. M. Cárdenas, 2017). This section includes -but is not limited to- some of these ‘juridical tricks’. The categories used for convenience below are not mutually exclusive and cannot always be neatly separated. A single case may involve multiple strategies. Furthermore, some of these strategies have also been used by individuals and companies not involved with paramilitaries and thus are not always combined with violence – i.e. not all of them are exclusive to the para-elite land grab.

The goal of providing a detailed account of these mechanisms is to facilitate a clear explanation of *how* coercive dispossession actually occurs and its relation to displacement. This section also provides evidence for various broader arguments. First, it elucidates further why the para-elite land grab does not fit standard notions of wartime plunder and the importance of wider networks in operationalising dispossession. Second, it shows that the land grabbers skilfully exploited property rights rules and institutions, rather than their collapse. Third, it demonstrates why land titles are insufficient protection against dispossession, while also indicating how property rights (especially but not only inalienable collective titles) can act as a barrier to land grabbing under certain conditions. Finally, it indicates why ‘technical fixes’ (specific laws and procedures) are insufficient on their own to prevent dispossession.

(i) *Forced displacement as a mechanism of land dispossession*

The dispossession process often began with mass forced displacements, in which hundreds or even thousands of people fled from a paramilitary incursion - sometimes carried out in conjunction with or just after a State-led military operation. In some cases, evidence clearly suggests the violence was motivated by economic interests in the land. For example, in the case of the recurring forcible displacements in Jiguamiandó and Curvaradó, even Public Prosecutors concluded these “were *aimed* at acquiring, through irregular methods, the lands belonging to the members of the Afro-Colombian communities” (cited in Juzgado 5to de Medellín, 2014, pp. 20–21, emphasis added). However, it is usually difficult to know whether the land occupation was the original purpose of the violence or whether the para-elites decided to take over the land after the displacement had occurred. Either way, they frequently employed violence and intimidation to prevent the displaced from returning and to pressure them into selling their abandoned lands (see e.g. Quinche, 2016; Vargas Reina, 2016b, 2016a; Uribe Kaffure, 2014).

Aside from the role of *mass* forced displacements in facilitating land grabs, some communities were drained ‘drop by drop’. Also, the paramilitaries often used targeted violence to selectively displace particular families. Individuals considered subversive or accused of collaborating with the guerrilla were usually the victims of these targeted displacements, as well as families who lived on particularly sought-after land (see e.g. Grupo de Memoria Histórica, 2010; CNMH, 2012c; Barrios & Vargas Reina, 2016). The sequence is similar to that already described: threats or violence lead to forced displacement, paramilitaries or their allies occupy the abandoned land, and then attempt to legalise this occupation *ex post facto*.

As depicted above, physical and legal usurpation *followed* a process of mass or selective forced displacement. However, occasionally this was imposed almost simultaneously; the paramilitaries would give the order to ‘sell’ and vacate at the same time. In such instances, it is clear that interest in the land was the main reason for the forced displacement, as exemplified by the following testimony from Caldas:

[A friend of mine] had an enormous farm [... but] they [the paramilitaries] called the man and they told him: “Ok, you know who we are, right? So, have this Toyota and these 2 million pesos [equivalent to 1,000 USD at the time], and get out of here”. About two months after giving him the Toyota, they told him to hand the car over. They took it from him. It was an old Toyota. That farm was immense; it had crops and cattle. [Me: and they only gave him 2 million pesos?] Yep: “here have this”. [...] They called him, and they said: “The farm is ours, have this”. And he knew who he was dealing with. [...] He’s not going to claim [his land via the restitution process]. I have sought him out and he says: “I’m not going to get myself killed, I know who those people are” (Personal Interview, 2015).

Javier\* who told me this story wasn’t sure if his friend had transferred the land title to the paramilitaries or what happened to the property rights over this farm. But in other cases, the paramilitaries forced victims to sign over their land rights before or at the time of their displacement and thus achieved the first step in legalising the theft almost immediately. Javier’s\* father, who owned land in the Valle department, experienced this first hand. The Calima Block of the AUC began to harass him in order to pressure a sale. The first purchase

offer came after they broke into his home. A second and third offer followed the theft of his cattle. The man would not give in. Eventually, he was summoned to a meeting. The paramilitaries had abducted one of his sons; he signed the papers transferring the land.

(ii) *De-facto land occupations*: As noted above, physical takeover is often followed or accompanied by efforts to legalise the occupation. However, sometimes dispossession doesn't get past this stage (see e.g. Uribe Kaffure, 2014, p. 269; Quinche, 2016, p. 100). Usurpers may be less likely to make their possession official if the land in question is used for coca production and other illicit ventures. Evidence suggests that de-facto occupations have been especially common in indigenous and Afro territories. As explained earlier, collective titles are officially inalienable, making it particularly difficult (though not impossible) for the usurpers to secure property rights over such lands. In Putumayo, for example, armed gangs imposed unofficial gold mining operations within *resguardo* land. A Nasa leader of one community asked workers to leave the area, but he was told "not to insist because they [presumably, their bosses] are very dangerous people" (Personal Interviews, 2015). Black market timber operations function in a similar way; however, these often overlap with (and are sometimes indistinguishable from) apparently legal tree felling. Technically, logging firms require formal authorisation from the communities who collectively own the affected lands, as well as environmental permits from the State, but the former requirement is often ignored. For example, Maderas del Darién S.A. -a firm that formed alliances with the paramilitaries- has engaged in industrial logging ventures on Afro and indigenous lands in Chocó, without authorisation from the relevant community authorities (CIJP, 2012b; see also Mejia, 2009).

(iii) *Forced transfers of ownership or coerced sales*: Many private property titles were transferred under coercion following direct threats, the murder of family members, or literally at gunpoint. This type of forced transaction -at extremely low prices<sup>108</sup> or without payment at all- is epitomised by the paramilitary maxim 'sell or we will negotiate with your widow'. In some cases, the forced sale was imposed at the same time as, or prior to, the displacement; in others, the usurpers contacted the titleholder after they had been

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<sup>108</sup> For example, the SNR reports that at least 40 of the plots purchased by the Córdoba Cattle Ranching Fund were acquired for *less* than \$50,000 per hectare and for as low as \$10,000 per ha; this is between \$4 and \$50 USD depending on the year (not indicated) and hence the exchange rate.



uprooted. In Chocó and the Urabá region of Antioquia, for example, the paramilitaries and their business allies employed land brokers to seek out the displaced and pressure them to sell. Often the usurpers offered to buy lands they had already occupied (El Espectador, 2014a; El Heraldo, 2014; Juzgado 5to de Medellín, 2014; Unidad de Restitución de Tierras, 2014). Coerced land transfers have been documented across Colombia: from Caldas, Putumayo and Valle to Magdalena, Antioquia, Chocó, Casanare, Meta and Santander (Personal Interviews 2014-2015; Quinche, 2016, p. 104; Vargas Reina, 2016b, pp. 71–74 ; Verdad Abierta, 2011b; El Tiempo, 2014d; Barrios & Vargas Reina, 2016, pp. 164–169; Uribe Kaffure, 2014, p. 269). It is worth emphasising that forced (discussed here) and fraudulent (discussed below) transfer strategies often overlap, since the para-elite frequently used fabricated POA documents<sup>109</sup> to finalise the legalisation process in cases where people had been forced to sign papers ceding property or possession rights (Fiscalía General de la Nación, 2014, p. 9; Vargas Reina, 2016b, pp. 71–72). However, in a few cases, the paramilitaries actually obligated their victims to go personally to the Notary Office and hence legalise the transfer themselves (Barrios & Vargas Reina, 2016, pp. 163, 168).

(iv) *Fraudulent transfers of ownership*: Some displaced families who never sold their land later discovered (e.g. upon soliciting protection for their property) that their title was registered in someone else's name (see e.g. Juzgado 5to de Medellín, 2014). This was usually achieved using forged power of attorney (POA) documents and deeds. In a number of cases, the legitimate landholders, who allegedly signed documents transferring their properties, were actually deceased at the time of the transfer<sup>110</sup>. For example: Porfilde Galván Guerra died in June 1993, but supposedly signed a power of attorney document in May 2005, which allowed paramilitary agents to sell his farm (Verdad Abierta, 2012a). Similarly, Hernando Cardona Higuaita was murdered in December 1997; nevertheless, he supposedly travelled

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<sup>109</sup> In some cases, people were obligated to sign POAs or blank documents, meaning that the signatures themselves were not always forged. However, unless the victim actually went to the Notary Office to validate the POA, then the required authentication was faked, achieved through impersonation, or provided by a dishonest notary. For example: 69 of the 105 properties acquired by the Córdoba Cattle Ranching Fund were transferred using POA documents allegedly granted to Sor Teresa Gómez Álvarez - jailed since 2013. Many of these documents contained clear irregularities (SNR, 2011a, p. 5, 2011d, p. 51). Public Prosecutors allege that the Notary, Miguel Francisco Puche, authenticated the illegitimate POA documents and elaborated the public deeds (Fiscalía General de la Nación, 2014, p. 9).

<sup>110</sup> In addition to the two cases mentioned in the main text from the Urabá region of Antioquia, four further cases like this have been documented in Jiguamiandó and Curvaradó - Chocó (INCODER, 2012; Juzgado 5to de Medellín, 2014). It is likely this 'method' was also used in other regions.

to a Notary in Carepa in the year 2000 to transfer his property, which now form part of the thousands of hectares owned by the firm *Palmas y Ganados S.A.* (Yhobán Camilo, 2016). The assistance of corrupt notaries was essential to this method of dispossession. Consider, for example, that a POA document is only valid if it has been authorised by a Notary and that the person granting the ‘power’ must solicit this authorisation in person.

(v) *‘Administrative dispossession’ or revocation/reallocation of titles*: INCORA or INCODER officials revoked titles that had been granted to reform beneficiaries, on the grounds that title-holders had abandoned the land or had fallen behind with loan payments, despite the fact that they had been forcibly displaced and, as such, should have been exempted *-by law-* from the usual conditions attached to government land grants. They often reallocated these titles to individuals implicated in this forced displacement, including paramilitaries and their allies. In 2003, in the department of Magdalena, INCORA revoked 134 titles, amidst a regional forced displacement crisis, and without notifying the affected landowners. Quinche (2016) provides multiple examples which suggest that the administrative procedures were part of a well-planned land grabbing strategy (p. 107-111; see also Verdad Abierta, 2011a). In a handful of cases, the original reform beneficiaries were forced to sell or rent informally and the transfer was later completed through the revocation and reallocation process (Quinche, 2016, p. 107; SNR, 2012); in other words, coerced sales and administrative dispossession were combined. Similar tactics have been documented elsewhere in the country (SNR, 2011d, p. 15 and 29–30; see also Vargas Reina, 2016b).

(vi) *Formal titling of usurped baldíos or lands acquired by INCORA/INCODER*: Many of the displaced were not legal owners of the land they had formerly farmed, but occupants of *baldíos*, abandoned private lands, or properties that had been acquired by INCORA/INCODER for redistribution. In such cases, the act of displacement and re-occupation was in itself an important step in legalising the theft since continuous use and occupancy of a plot is usually a prerequisite in titling applications<sup>111</sup>. As suggested by

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<sup>111</sup> Article 69 of Law 160 states that applicants must be able to prove occupation and exploitation of the *baldío* land solicited for titling for a period of no less than 5 years. Law 387 of 1997 and posterior legislation makes allowances for people who were forced to abandon their lands so that the time they were displaced should not count against them as an ‘interruption’ of ‘possession’ or ‘occupancy’. These laws should also have protected displaced reform beneficiaries from revocation. However, many were unaware of this law and did not inform authorities of the forced abandonment in time. In other cases, officials did not take their reports into consideration or directly flouted the laws.

Gutiérrez and Vargas (2016), it was much easier for paramilitary groups to take lands that were informally owned (p. 25; see also Grajales, 2011). Nevertheless, in some cases the paramilitaries and their allies still obligated the displaced to sign documents in which they agreed to 'sell' the lands they had occupied. The para-elite regularly finalised the dispossession by gaining a property title over the usurped land for themselves or their allies (examples from Casanare and Meta in Barrios & Vargas Reina, 2016, pp. 164–165; Verdad Abierta, 2011b). In Chivolo (Magdalena), for example, multiple properties acquired by INCORA were allocated to demobilised paramilitaries and their associates following the displacement of the intended beneficiaries. In such cases, the officials who granted the titles to the new occupants/usurpers were usually themselves involved in the swindle (Quinche, 2016, pp. 101–102 and 104–106; see also the case of Hacienda el Toco in César department in Verdad Abierta, 2013c). It is worth recalling that only landless or land-poor farmers with low incomes are eligible for titles over State lands or properties acquired for redistribution; nevertheless, these rules were regularly broken (see the various SNR reports).

(vii) *Fraudulent titling of usurped lands*: The para-elite also forged titles for *baldío* or other lands taken from the original occupants by force. Presumably, this strategy was preferred when the land grabbers believed a formal titling application would be denied. INCODER/INCORA officials often helped the usurpers create the fake titles. This is well documented in the case of Jiguamiandó and Curvaradó (Juzgado 5to de Medellín, 2014) False INCORA/INCODER resolutions were also detected by the SNR in Meta and Antioquia. In some cases, it is unclear whether the titling resolutions were forged or 'authentic' but unlawfully procured, as described in the previous sub-section. For example, at least 49 of the 100 plus properties acquired by the Córdoba Cattle Ranching Fund had dubious titling resolutions, some of which were transferred to the Fund just 8 days after being originated. The SNR report *implies* that these were bogus documents (SNR, 2011a, p. 5). However, Public Prosecutors claim the dispossessed were forced to fill in titling applications, which were put through with the help of an INCORA employee (Fiscalía General de la Nación, 2014, p. 9); and thus *imply* instead that the titling resolutions were genuine, albeit illegitimate.

(viii) *Fraudulent extension of existing titles*: 'Moving the fence' is perhaps one of the oldest dispossession tricks, usually associated with disputes between neighbours or the enclosure of common land. Many para-elite not only 'moved the fence' but also ensured that the new

property boundaries would be officialised in the land registry. For example, the palm oil para-enterprises operating in Chocó increased their titled property holdings from 129 to 17,737 hectares via the registration of fictitious natural accessions<sup>112</sup> (Juzgado 5to de Medellín, 2014, pp. 179, 214–216). The SNR has documented dozens of irregular or suspicious area changes (many of which enlarged the property by 100% or more), achieved through different means, including notarised out-of-court statements (*declaraciones extra juicio*) and questionable certificates or resolutions, allegedly supplied by INCORA/INCODER or the IGAC (the *Instituto Geográfico Agustín Codazzi* is the official cartography agency in Colombia and is also in charge of the national cadastre). In other cases a property was enlarged little by little through various transactions; with each transfer, new boundaries or land areas were written into the public deed (SNR, 2012, 2011b, pp. 8–9, 2011a, p. 10). Such tactics have not been exclusive to those involved in violent land grabbing, but they were/are clearly part of the para-elite arsenal.

(ix) '*Legal detachment*' of *usurped lands under collective title*: Different legalisation strategies were used when the usurped land was under collective ownership, since as already reiterated such titles are inalienable. In the case of the Afro territories of Curvaradó and Jiguamiandó, this involved securing -genuine or bogus- individual property titles that were granted prior to 1993 (before the law protecting Afro territories came into force), fraudulently extending the area covered by these titles, and then applying for the exclusion or legal detachment of these lands from the collective title, through a demarcation (*deslinde* or *delimitación*) process<sup>113</sup>. It is worth noting that the para-elite had only limited success with this strategy in Curvaradó and Jiguamiandó. INCODER passed two resolutions in 2007 detaching 6,393 ha from the collective titles (INCODER, 2012, p. 6)<sup>114</sup>. *At least* 23 of the 156

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<sup>112</sup> The 'natural accession' or 'alluvion' rule allows a landowner to augment their title with land that is formed due to gradual soil deposits along a riverbank or that is no longer submerged due to changes in the river's course. Generally, this rule is not applicable under Colombian law (Juzgado 5to de Medellín, 2014, p. 302) but some have managed to exploit it nonetheless.

<sup>113</sup> Apparently, INCODER functionaries advised the businessmen that the only way for them to secure rights over the land they had occupied was to gain titles granted before the passing of Law 70 in 1993 (Juzgado 5to de Medellín, 2014, pp. 265, 274). The investors had to overcome a considerable obstacle: the dearth of such titles. So, they brought the deceased back to life, reinvented Colombian geography, and acquired farms that never existed.

<sup>114</sup> This contradicts information provided in the 2014 court sentence, which suggests that more than 20,000 ha were excluded. According to this document, under the new demarcation, the territories of Curvaradó were reduced from 46,084 to 34,209.91 ha, while those of Jiguamiandó fell from 54,973 to 46,459.08 hectares (Juzgado 5to de Medellín, 2014, p. 161).

properties that were excluded from the collective territories -covering more than 1,100 ha- belonged to the paramilitary-backed investors and firms<sup>115</sup>. Keep in mind, however, that by 2004 the palm oil companies occupied more than 22,000 hectares and by 2008 they had planted almost 10,000 hectares with oil palms (INCODER, 2012, p. 92). Hence, the vast bulk of lands they occupied remained part of the collective titles.

(x) *Legitimizing the occupation of collective territories through association agreements*: In August 2005 INCODER passed a resolution that explicitly authorised<sup>116</sup> the establishment of alliances or associations between Afro communities (via their Councils) and outside companies or investors that allow for “the development of productive projects within collective territories” (INCODER cited in CIJP, 2005, p. 102), so long as this does not imply the transfer of property rights – recall that collective titles are inalienable. A number of observers agree that this resolution was a reaction to the land grabs in Chocó - an attempt to legalise the violent occupation of various collective territories (CIJP, 2005, p. 103) or to resolve the land conflicts by presenting “the interests of community councils and those of agribusiness firms [as] compatible” (Grajales, 2013, p. 224). In the collective territories of Cacarica, Curvaradó and Jiguamiandó, various companies and individuals attempted to establish association agreements with the communities *after* they had occupied the lands. In all three cases, the majority of inhabitants were displaced and returned to find their lands being used for logging, oil palm cultivation and other commercial activities, protected by the army and paramilitaries. The companies attempted to legitimise their operations *ex post facto* by establishing ‘agreements’ with co-opted leaders without the consent of the wider communities and/or with small groups (including new arrivals – see below) who organised exclusionary votes (CIJP, 2005, 2007; Defensoría del Pueblo, 2007; Juzgado 5to de Medellín, 2014). A similar process occurred in the nearby collective territories of La Larga Tumaradó and Pedeguita Mancilla (Vargas Reina, 2016a, pp. 138–143).

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<sup>115</sup> This is potentially an underestimation since many private titles that were excluded from the collective territories have individual owners, who may or may not act as figureheads for the usurpers.

<sup>116</sup> A number of companies and individuals attempted to gain use rights over collective territories through various bogus agreements and contracts before the ‘association’ modality was authorised by the government. For example, one document (dated March 2004) feigned that the Curvaradó Council gave usufruct rights -apparently over the entirety of the collective territories (46,000 ha) - to five companies. Its signatories were not authorised to act as legal representatives of the people of Curvaradó and no General Assembly was held to consult with the communities. The document was endorsed by an entity that posed as the official Communal Council; this parallel entity was registered with the Chamber of Commerce (CIJP, 2005, pp. 15, 96–102).

(xi) *Controlled repopulation and repartition of usurped land*: In order to build a local support base, the paramilitaries and/or associated businesses often encouraged others to establish on the lands -whether *baldíos*, private property or collective territories- abandoned by the people they had displaced (see e.g. Uribe Kaffure, 2014, p. 269; Quinche, 2016, pp. 103, 105–106 and 110; Vargas Reina, 2016a, pp. 140–143). In a number of cases, they even conducted semi-formal repartitions of small plots to the newcomers, ensuring the settlers' allegiance. Usually called 'repopulation', the strategy has actually been used by both the guerrilla and paramilitaries to assert territorial control. However, for the paramilitaries, this often served economic ends also. Settlers usually became the para-elites' employees, contract farmers or figureheads (*testaferros*). Repopulation also enabled the para-elite to distance themselves from the resulting land conflicts. For example, in Jiguamiandó and Curvaradó, clashes between the original inhabitants and the newcomers allowed the palm oil firms to portray the situation as a conflict within and between communities in which they were peripheral actors (CIJP, 2012a, 2016; INCODER, 2012). And, in the case of collective territories, newcomers may also help the companies or individuals gain influence over the Communal Councils, which may sign the association agreements mentioned above<sup>117</sup>.

(xii) *Legitimising land grabs via producer cooperatives or associations*: The former strategy was often combined with the creation of producer cooperatives or associations, controlled or influenced by the paramilitaries and/or associated business and usurpers, which could serve multiple purposes. (a) The cooperatives helped organise allied individuals and opponents of the original land holders. (b) They provided ostensible legitimacy to the land occupation, which could be represented as an inclusive development project, benefitting

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<sup>117</sup> In 2010 the Constitutional Court reiterated instructions (to the Ministry of Interior) to carry out a census within Curvaradó and Jiguamiandó, with the goal of identifying the original and legitimate inhabitants of the zone. This came after repeated complaints that the area was being repopulated with outsiders loyal to the palm project and against the Curvaradó Council recognised by the Ministry of Interior in 2010. This Council was elected during an exclusionary assembly (held in 2009) in which just 4 of 22 communities participated. Furthermore, the Assembly Act, which is meant to substantiate the vote, did not include the last names, signatures and identification numbers of many participants. The relevant authorities failed to respond to the complaints and requests to register a different Council that was voted in by 12 different communities. For this reason, the Court reiterated a freeze on all transactions affecting the collective territories until after the census and posterior Council elections with institutional oversight (Corte Constitucional, 2010, pp. 21–31; Osorio, 2011).

smallholders<sup>118</sup>. (c) They could be used as institutional figureheads to conceal the identity of the true landowner. (d) And, in some cases, the cooperatives or associations served as a channel through which the para-elite secured government-backed loans and subsidies specially designated for 'strategic alliance' projects. (e) Finally, a handful of cooperatives or associations were made up of active or demobilised paramilitaries and thus allowed the commanders to compensate their combatants, while maintaining control over the land. In some cases, this also enabled access to funds earmarked for peace building, which added another layer of 'legitimacy' to dispossession. The para-elite established at least five producer associations and cooperatives as part of their land grabbing strategy in Jiguamiandó and Curvaradó alone (Juzgado 5to de Medellín, 2014). Smallholder associations or cooperatives created and/or controlled by the paramilitaries and related businesses have been documented in regions across the country, including: Tulapas – Antioquia (Ballvé, 2013), Parapeto - Magdalena (Quinche, 2016, p. 103), Córdoba, Meta, Guaviare and Bolívar (CNMH, 2012c, p. 109 and 150).

(xiii) *Land laundering and figureheads*: Common to many cases of dispossession are complex processes of dividing and merging properties (leading to the creation of a new folio in the land register) and multiple transfers, which obscure the origins of the final title. Teo Ballvé (2013) labels this and other strategies (including some of those described above<sup>119</sup>) "land laundering [...] the process by which the illegal origins of a land acquisition are concealed" (p. 63). Furthermore, *testaferrato* or the use of figureheads (*testaferros*) to hide the identity of the true owner of an asset, "commonly employed by the economic elites with the aim of evading taxes", has also been used to conceal the identity of the beneficiaries of dispossession (CNMH, 2012c, pp. 87–88; see also pp. 77-80). The same tactics are also used to conceal the illicit accumulation of reform lands and the violation of UAF land ceiling rules (see Chapter 6 and below).

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<sup>118</sup> Ballvé (2013) argues that "grassroots development became the basis of [...] land laundering [...] Grassroots discourses gave paramilitary-supported projects an air of *symbolic* legitimacy. But more than legitimization [...] made possible a series of *material* practices and institutional formations that helped further obfuscate the illicit origins of the lands" (p. 63, emphasis in original). This includes, but is not limited to, the use of producer cooperatives mentioned above.

<sup>119</sup> Following Ballvé (2013), "land laundering is not the one-off conversion of the illegal into the legal, but rather an on-going, everyday process of blurring any distinction between the two" (p. 63).

### 3) Opportunistic and predatory land accumulation and unequal power relations

“The bombings are terrible. People just start running. There are families who sell [their land] cheap in order to get out” (Inhabitant of the Amazon Pearl - Putumayo, Personal Interview, 2015). As the quotation suggests, armed conflict provokes distress sales. In Colombia, a huge amount of land changed hands during and in the aftermath of violence. A few individual investors and companies bought up thousands of hectares from *campesinos* who had been forced to abandon their farms. In some cases, predatory buyers sought out families who had been forcibly displaced. In others, the displaced themselves went in search of someone who would purchase their property. These plots of land were usually sold at very low prices (see e.g. Grupo de Memoria Histórica, 2010; García Reyes & Vargas Reina, 2014; Uribe Kaffure, 2014). For example, one media report indicates intermediaries purchased for as low as \$100,000 pesos (circa \$35 USD) per ha and resold at around \$3 million per ha (Semana Sostenible, 2018).

This section focuses on land acquisitions that fall into a grey area; those that were neither directly and openly forced, nor truly voluntary. In the context of the Colombian conflict specifically, these are purchases in which the buyer was unrelated to those responsible for displacement and did not use physical violence or death threats to procure the land. Such acquisitions are clearly distinct from the overtly coerced sales or fraudulent transfers described in the previous section. However, these were not genuinely voluntary transactions either, as it was the violent context and resulting displacement that compelled people to sell. The relationship between coerced and voluntary land transfers can be fruitfully described as a continuum (García Reyes & Vargas Reina, 2014, p. 43; Hall, 2013, p. 1594); here I am interested in those acquisitions that lie somewhere in the middle. While some buyers simply took advantage of an opportunity to buy land cheap from desperate sellers, others acted as ‘predators’, exerting diverse forms of pressure on the displaced. The latter are closer to coercion than the former; I provide a couple examples to clarify.

In the municipality of Pensilvania (Caldas), for example, a number of people reported selling their farms during the worst years of violence. Those I spoke to did not say who purchased their land, but implied that the buyers were mostly absentee landowners from the regional elite. One man fled because he was declared a military objective of the FARC. He sold his farm shortly after. He said he didn’t want to give up the land but desperately needed the money during the time his family was displaced. He did not express resentment towards the buyer and stated outright that he had not been ‘dispossessed’. Once the conflict subsided, he returned to his village as a landless labourer (Personal Interviews, 2015).



Many testimonies included in the Historical Memory Group's description of land concentration in the Montes de María region, in contrast, illustrate more predatory practices among buyers (though one or two accounts also present the investors in a favourable or neutral way). One *campesino* told researchers that land had not been "taken", but noted that interested investors often "harass" smallholders, and that the "struggle" was to convince people not to give-in and sell (Grupo de Memoria Histórica, 2010, p. 166). Another interviewee suggested that the buyers were in fact "grabbing" (*arrebatando*) the land, given the "miserable" sums they offered in return (*ibid*, p. 173).

Opportunistic and predatory land accumulation is best documented in Montes de María, a topographically defined region of northern Colombia that was severely affected by the armed conflict. In addition to the Historical Memory Group's study cited above, the SNR conducted an investigation which included close scrutiny of the local land registers. They found that tens of thousands of hectares had been purchased by a dozen or so individual investors and firms (just five acquired more than 18,000 ha) between 2006 and 2010. Some 120,000 people were forcibly displaced from or within Montes de María that same decade. According to the SNR, more than half of the properties acquired were previously smallholdings allocated through INCORA's reform program. Most land was purchased at below-market prices, merged into large properties, and then re-sold at commercial rates to well-known national companies. All of this was achieved through a complex chain of transactions, often with clear 'irregularities' such as registration of questionable titling resolutions, violations of restrictions applicable to lands acquired through the reform program or the legalisation of transfers affecting properties subject to protection measures without the relevant authorisation (Semana, 2011a; SNR, 2011c; Grupo de Memoria Histórica, 2010, pp. 166–184).

A few clarifications are in order before proceeding. First and most importantly, without detailed research it is difficult to know whether a single case involved overt coercion and hence fits into the para-elite land grab phenomenon described above or did not and hence belongs in the category presently discussed. For example, the macro information about land concentration provided by the SNR is insufficient to answer questions such as: were the original landholders threatened by those interested in acquiring the land or are these farms occupied by the same people that orchestrated forced displacement? The Historical Memory Group's analysis of land accumulation in the same region (Montes de María), suggests that it was affected by both overtly violent land seizures and the grey area transactions focused on here (Grupo de Memoria Histórica, 2010, p. 181).

The second point of clarification is more conceptual than empirical. Just as there is a grey area between coerced and voluntary land transfers, there is a grey area between the para-elite land grab and opportunistic land accumulation. Suppose, for example, that the shareholders of a land-accumulating company financed paramilitary groups but that this same company acquired its properties from the hundreds of displaced persons who sold their farms not because they received death threats or were directly forced in some other way, but because they desperately needed the money. Such a company would be complicit in the displacement in so far as its shareholders funded the group that was responsible. However, it would be a leap to claim that the company *stole* the land, the way other firms involved in the para-elite land grab did. Though my example is hypothetical, evidence indicates this sort of situation exists. García and Vargas provide information about a few of the companies and individuals who accumulated land in Montes de María. The major shareholders of one of the companies and the legal representative of another are accused of financing or otherwise associating with the paramilitaries; however, the authors suggest that these firms were involved in opportunistic “mass acquisitions”, not violent land grabs (García Reyes & Vargas Reina, 2014, pp. 36–38).

Third, it is important to emphasise that the displacement that enables opportunistic and predatory land acquisitions may have been caused by the paramilitaries, the army, guerrillas, or a mixture of these groups. It may have been an inadvertent consequence of armed conflict or motivated by reasons other than land dispossession. For example: intense battles often caused people to flee (inadvertent displacement), while the guerrilla often ordered individuals or families they accused of collaborating with the enemy to leave the area (deliberate displacement not motivated by land dispossession) - both provided opportunities for third-parties to purchase abandoned land cheaply.

Fourth, I am concerned with land accumulation. Violence can and has led to transactions between smallholders. Furthermore, some large landowners affected by the armed conflict transferred their farms to other elites. However, as argued by García and Vargas (2014), these “transactions between peers” or people of *relatively* equal status and power *tend to be* more “symmetric”; they *typically* do not “involve the use of force or differences of information between the parties”<sup>120</sup> (p. 40). Finally, in a few specific geographical and temporal contexts, the conflict favoured land redistribution, as guerrilla

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<sup>120</sup> The authors refer specifically to informal transactions between *campesinos*. However, similar observations may apply to transactions between elites. I emphasise qualifying words with italics because I do not want to suggest that asymmetries were always or wholly absent from such transfers.

threats and violence against large landowners compelled them to sell to the agrarian reform institute. But macro data shows that land concentration in Colombia increased over the last few decades, suggesting the predominance of transactions from 'labouring classes' to elite groups. These transactions deserve separate analysis precisely *because* of the unequal power relations involved.

In order to highlight unequal power relations and enabling structural conditions, the remainder of this section is organised into two parts focusing on the general conditions of the sellers and then the buyers. The examples and details offered below are mostly drawn from research and documents focused on Montes de María, which means some observations may reflect regional particularities. Nevertheless, opportunist and predatory land accumulation is not exclusive to this region. This section also draws on Sonia Uribe's (2014) study of Tibú - North Santander and is informed by accounts from eastern Caldas and lower Putumayo (Personal Interviews, 2015).

#### *The socially disadvantaged sellers*

Many *campesinos* were pushed into extreme poverty as a result of their displacement. What little economic wealth these families had was typically tied up in physical assets (e.g. farm infrastructure, objects such as furniture and tools, and the crop itself) that were lost precisely as a result of their displacement. Many were forced to leave behind all but what they could carry, and often had little or no savings. Some went to stay with family or friends, others ended up living in make-shift camps or slums in Colombia's towns and cities. So, for many selling their land was a question of survival, a means of withstanding conditions of displacement (see e.g. IDMC, 2007; also Personal Interviews, 2014-2015).

(i) *Violence-induced distress sales* - These transactions fall into the category of what are typically called 'distress sales' in which a person or company is forced to sell their assets, usually at very low prices or even at a loss, due to adverse circumstances. However, business and economics discourse usually refers to situations such as job loss, unforeseen legal or medical expenses, or unmanageable debts. Mass forced displacement forms a *systemic condition* for distress sales. Furthermore, unlike natural disasters or financial crises, these systemic conditions are generated by direct actions involving *extra-economic* force. For this reason, it is pertinent to distinguish sales that are violence-induced from other types of distress sales.

(ii) *Barriers to return* - The term 'distress sale' typically refers to transactions carried out with urgency. But some displaced families took years to sell their land. In such cases, impediments to people's return often plays a role. As explained by the Historical Memory Group (2010), "the persistence of violence and the lack of capital to impulse anew productive processes has led many displaced peasants to 'voluntarily' sell their properties" (p. 170). Some farms were deliberately destroyed by armed actors; in other cases, abandoned homes became derelict and neglected crops perished overtime (see e.g. IDMC, 2007). There are people who simply cannot afford to reconstruct and replant. Others did or do not wish to return for multiple reasons and genuinely want(ed) to sell their land (León, 2009; Grupo de Memoria Histórica, 2010; García Reyes & Vargas Reina, 2014).

(iii) *Debt stress and pressured sales* - Hundreds of displaced persons have had their farms seized by the banks (Bolívar Jaime, 2012); many more have sold to cover debts. In addition to loans taken out for productive projects, many still owe(d) money for land acquired through the reform program<sup>121</sup>. Between 2006 and 2008, amidst a nation-wide rural displacement crisis, the government passed on some of its loan portfolio to CISA and COVINOC, companies specialised in debt collection. These firms started aggressively pursuing indebted *campesinos*, including those who were in arrears because of their displacement. Some received ultimatums that they should sell immediately to avoid seizure (Grupo de Memoria Histórica, 2010, pp. 178–179). In 2008 the Constitutional Court ordered banks to refinance debts of IDPs. However, many were unaware of the ruling and/or were not equipped to negotiate. One farmer from Montes de María explained: "we let ourselves be influenced by COVINOC's threats [...] But now we have been given advice that displaced persons can't be obligated [to sell because of their debts...] we didn't know that then" (cited in Grupo de Memoria Histórica, 2010, p. 175; see also García Reyes & Vargas Reina, 2014, p. 40; on North Santander, see Uribe Kaffure, 2014, p. 275).

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<sup>121</sup> Prior to 1994, reform beneficiaries were saddled with debts equivalent to 100% of the land cost; this was reduced to 30% following the passing of Law 160, which introduced a 70% subsidy. Later reforms increased the subsidy to 100%, but by then redistributive efforts had been reduced to a minimum. Note: this additional debt pressure is more prevalent in regions like the Atlantic Coast, where much of the redistributive reform efforts were historically carried out; in the south of the country, and other areas of recent 'colonisation', *campesinos* were more likely to occupy State land and *baldío* titling -unlike adjudications of redistributed land- only involves administrative costs.

*The well-connected buyers*

The buyers were/are typically absentee landowners, who did not and would not constantly endure the violence in the area, unlike the original landholders. In some cases, the investors were from outside the region entirely. In Montes de María, for example, most abandoned properties were acquired by people from Medellín and surrounding areas. These are often investors who could/can obtain personalised security from public or private forces when visiting their properties or who could afford to leave the land idle until the armed conflict subsided (see e.g. García Reyes & Vargas Reina, 2014, pp. 32–38; Uribe Kaffure, 2014, pp. 271–273; Grupo de Memoria Histórica, 2010, pp. 168–170, 189).

(i) *Buyer's networks* - Just like the para-elite described in the previous sections, many of these investors relied on existing or developing networks (e.g. links with notaries, functionaries and politicians, other investors), which enabled them to achieve the land accumulation. There is evidence that a number of buyers gained “access to privileged information from State entities like INCODER and [by establishing] alliances with the debt-collection agencies or their operators” (Grupo de Memoria Histórica, 2010, pp. 133, 178–179). So, many knew of the potential sellers’ adverse situation in advance; that they had abandoned their lands and/or had unmanageable debts. According to García and Vargas (2014), these “circles of information” and “circles of power” not only facilitated actual acquisitions (see below) but were linked also to the origins of the land rush in some regions. A businessman from Antioquia, for example, started buying lands in Tetón - Córdoba in 2001 and later “became a spearhead of a surge of property buyers in the municipality” (p. 32). The same man also shepherded other investors into neighbouring Montes de María, convincing them that the security situation would soon improve (contacts in high places advised that the defeat/expulsion of the FARC in the region was imminent) and that it was a perfect time to buy (García Reyes & Vargas Reina, 2014, p. 38).

(ii) *Government backing* - These investors are often seen as bringing ‘development’ to the Colombian ‘backwaters’; many set up precisely the type of project that the Colombian State is trying to promote. In Tibú - North Santander land was acquired for oil palm cultivations and mining/energy projects (Uribe Kaffure, 2014). Buyers in the Altillanura and Montes de María planted feed crops and established (e.g.) teak, rubber and palm plantations (Contraloría, 2013; León, 2009). The Comptroller’s report on unlawful land accumulation in the Altillanura contains details of the different government benefits granted to the implicated companies and individuals, including FINAGRO loans, interest rate subsidies, grants and tax exemptions (Contraloría, 2013, pp. 110–150). Various companies that

accumulated lands in Montes de María are also said to have received ICR and CIF subsidies (Cepeda, 2013). In other words, like with the para-elite land grab, grey area acquisitions during and in the aftermath of violence, served and were served by the government's economic development model.

In Montes de Maria, “functionaries from the Ministry of Agriculture [actually] accompanied the buyers and encouraged the ‘mass sales’, as happened in 2009 in the municipalities of María La Baja and El Carmen de Bolívar” (Grupo de Memoria Histórica, 2010, p. 179; see also García and Vargas, 2014, p. 38). Representatives of Argos, a large well-known national company that has received a lot of attention in the disputes surrounding opportunistic land accumulation in Montes de María and related restitution processes, reiterated that “the State invited the private sector to invest so as to impulse the economic and social development of the region” (cited in Verdad Abierta, 2016).

There is actually a video of the then (2009-2010) Minister of Agriculture -Andrés Fernández Acosta- publicly asking INCODER functionaries to eliminate restrictions on land transactions in the area (presumably, he is referring to the protection measures discussed above) and promising that the government is working towards eliminating the UAF rules designed to prevent land concentration. In this intervention in a public meeting, held in Montes de María, the then Minister makes it very clear that he supports the mass purchases that have been occurring in the region, noting without embarrassment that the many of the businesspeople behind this land accumulation (also present at the meeting) are his long-time personal “friends” (Contravía TV, 2011, 9:30-14:00).

(iii) *Predatory acquisitions* – As hinted at above, some companies and individuals went to great lengths to plan and execute mass acquisitions, consciously taking advantage of the adverse situation of the original landholders. Some purchase offers were accompanied by threats that if they didn't sell they might lose everything through bank seizure anyway. The buyers' lawyers even sent letters to indebted displaced farmers, which were confused with notifications of foreclosure (Grupo de Memoria Histórica, 2010, p. 175). One *campesino* explained: “the debt, the misters buying up land, they use it [*se agarran de ahí*], trying to fill us with fear so that we give our land away” for pennies (cited in *ibid*, p. 176).

In Montes de María, many buyers hired agents or relied on brokers (*comisionistas*) to seek out the displaced. According to one interviewee, they said things like: “you are going to end up alone because your neighbours already sold [...] and how will you get out? where will you get in? because either way they are going to put up fences” (cited in Grupo de

Memoria Histórica, 2010, p. 180). The Historical Memory Group suggests this tactic of refusing right of way to pressure sales was/is relatively common in the coastal regions. The book even includes a photo of a bridge blocked off with a concrete wall, apparently designed to prevent *campesinos* from accessing their plots (Grupo de Memoria Histórica, 2010, p. 187). In general, *campesinos* that stayed on their lands or decided to return found/find it difficult to survive surrounded by large farms and in a context “that privileges an agroindustrial production model” (*ibid*, p. 188).

(iv) *Streamlined legal transfers* - In Montes de María, buyers and intermediaries set up specially designated offices with teams of lawyers. Interviewees told researchers that people formed lines at these offices in order to sell their abandoned lands (García Reyes & Vargas Reina, 2014, p. 33). Intermediaries provided advice on sales and purchases, acting like real estate agents with lists of available land. Both types of offices streamlined the different procedures required for legalising the land transfers. Employees took charge of doing the different tasks that the *campesinos* needed to complete in order to sell, such as soliciting the lifting of any protection measures or any permissions required from INCODER and dealing with Notary Office errands (Grupo de Memoria Histórica, 2010, pp. 181–182).

The legalisation of the transactions was particularly complex in the case of reform and State lands. As explained previously, *baldío* lands titled by INCORA/INCODER and plots acquired through the redistribution program are subject to multiple rules. In terms of redistributed parcels specifically, for the first 12-15 years after being granted, these may only be transferred to peasants of scarce resources and even these transactions require “express authorisation” from INCODER. The violation of such norms was particularly predominant in northern Colombia. In contrast, in the *Altillanura* and other regions, land accumulation involved the violation of UAF rules pertaining to lands originating in *baldío* titles - these restrictions, unlike those pertaining to reform parcels, do not expire. Buyers and agents used all sorts of methods and relied upon their networks to get around the various rules. In general, they had the knowledge and means to “manage the very complex laws related to the assignment of rural property rights”; they were able to ‘use the law’, while sellers generally ‘suffered the law’ (García Reyes & Vargas Reina, 2014, pp. 39–40; see also Uribe Kaffure, 2014; SNR, 2011c; Grupo de Memoria Histórica, 2010; León, 2009).

This section has laid out what I call opportunistic or predatory land accumulation, as it occurred in many parts of Colombia. I do not use the term “land grabbing” here, as neither the buyers, nor the government acting on their behalf, *seized* the land. Nevertheless, from many of the sellers’ perspective, the transactions were not purely voluntary either. These

grey area land transfers have been a very important form of dispossession in Colombia in recent decades. Various scholars have emphasised the importance of unequal power relations in land transactions more generally (Borras, 2003; Akram-Lodhi, 2007; Hall, 2013). Neoclassical economists tend to assume that “people meet as equals to mutually and voluntarily agree a price upon which to exchange a commodity, an exchange that is equally beneficial to both” (Akram-Lodhi, 2007, p. 1440). However, as explained by Akram Lodhi, often “the identity of those conducting an exchange is essential to its terms and conditions, including the price” (p. 1440). This section has shown that the particular dynamics of the Colombian conflict over the last three decades *magnified* unequal power relations, which facilitated land *accumulation*.

### Summary and conclusion

This chapter has highlighted the various forms and mechanisms of dispossession that exist in contemporary Colombia, revealing the diverse actors and intersecting interests at play. It has argued that (1) counterinsurgency warfare is partly *constitutive* of agrarian counter-reform and the para-elite land grab represents a transformation of pre-existing processes and practices; (2) violent dispossession relied on a network of unarmed actors and thus does not fit well with stereotypical understandings of wartime plunder; (3) ‘illegal’ land grabs served and were served by the State’s economic policies; (4) the para-elite used multiple methods to legalise and legitimate land usurpation and exploited the property rights regime, rather than a collapse of these rules and institution – again illustrating the deficiencies of conventional accounts of dispossession in conflict contexts; (5) investors and businesses (not involved in violent usurpation) profited from forced displacement by purchasing abandoned lands at clearance prices – this opportunistic and predatory land accumulation was enabled by unequal power relations and has also facilitated and been facilitated by the State’s development model.

A couple issues deserve mention before proceeding to the final chapter, which focuses on dispossession associated with oil, mining and infrastructural projects. Dispossession has certainly propelled more people onto the labour market (though it should be said that this is not always the case), which combined with forced displacement more generally, most likely exacerbated high levels of unemployment, especially in the country’s cities<sup>122</sup>.

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<sup>122</sup> Between 1990 and 2000 Colombia’s average unemployment rate in its 7 most important cities was 12.2%, with a high of 20.5%. The figures for 2000 to 2006 (different method of calculation to



According to one study, the displacement crisis in Colombia contributed to an 18% decline in real salaries in the *informal* sectors, which account for around half of employment in Colombia's urban areas (study by Ibáñez cited in Kalmanovitz, 2008). However, unlike in previous eras, there is no clear evidence to suggest that recent dispossession has been *motivated* by an interest in labour acquisition/retention; these processes have been characteristically 'expulsive', aimed at securing control over the land and related resources.

The 2014 national agrarian census, the first to be conducted since 1970, confirmed what many observers already believed: that a small group of people control most of the country's land and that a large proportion of this remains un- or under- used. The census classified some 43 million hectares -38% of the total land area- as under 'agricultural use'. However, 80% of this area (34 million ha) is covered by grasslands or *rastrojo*<sup>123</sup>. Less than 20% of agricultural lands were actually cultivated as of 2013 (DANE, 2016, p. 51). At the same time, 69.5% of agricultural producers have plots of less than 5 hectares and occupy just 5.2% of the land area; and 0.2% of producers, with 'agricultural production units' or UPA of over 1,000 hectares, occupy 32.8% of the total area (DANE, 2016, pp. 502–503). Note: these figures do not represent concentration of ownership, as an UPA is not the same as a property or titled plot<sup>124</sup>.

As noted above, because of a lack of comprehensive data, we simply do not know to what extent dispossession has contributed to the un- or under- use of agricultural land. However, qualitative research suggests that (1) much -probably most- of the land usurped or acquired opportunistically in the conflict-context belonged to *campesinos*; (2) for the most part, was previously either used for subsistence cultivations and small-scale commercial agriculture or (especially in the case of Afro/indigenous territories) covered in natural forests; (3) and, in a considerable number of cases, following dispossession, was planted with industrial monocrops and tree plantations. This indicates that, instead of provoking the replacement of extensive-cattle grazing with higher-value land uses or the

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above) are an average of 16.2%, with a high of 20.1% (DANE, 2007). It must be stressed that the method used by the national statistics agency DANE counts a person who (e.g.) sells sweets on a bus two hours a week as employed (Dinero, 2014) and hence the figures are misleadingly positive.

<sup>123</sup> Under the census definition, this is land that hasn't been cultivated for three years or more and has 'bushy' or 'shrub' vegetation growing on it (DANE, 2016, p. 45).

<sup>124</sup> For example: an agroindustrial farm -considered one UPA- may be spread across several properties, while *resguardos* covered by a single collective title contain multiple UPAs. The distinguishing characteristic of an UPA is that an individual or entity is responsible for economic activities within the corresponding area (DANE, 2016, p. 20).

establishment of new crops on unused but cleared lands (i.e. already deforested), commercial land pressures have been transferred to *campesinos* and indigenous/Afro communities via usurpation and opportunistic/predatory acquisitions. Ironically, while the government is reluctant to expropriate or confiscate large idle properties for redistribution purposes (or even discourage speculative property accumulation via taxation and other 'softer' measures), it has been more than willing to use its' taking powers to sustain the oil and mining industries, as shown in the subsequent chapter.

## **Dispossession and displacement for State-backed investments**

The previous chapter discussed the para-elite land grab, as well as opportunistic and predatory property accumulation in the conflict-context. In this final chapter, I analyse dispossession and displacement associated with investments directly backed by the State, which includes both the above categories, as well as 'legal' coercive land acquisitions and other types of involuntary land loss. As explained earlier, this and the preceding chapter are dedicated to examining diverse forms and mechanisms of dispossession, which is a worthwhile endeavour in itself, but also permits a deeper understanding of *how* these processes unfold and bolsters some wider propositions, as explained in ensuing paragraphs.

Here I use the term 'State-backed project' in a specific way, referring to investments that are underwritten by government taking powers. While industrial agriculture and commercial forestry have received significant State support, there is currently no explicit law in Colombia that allows government entities to directly dispossess and displace inhabitants to make way for such projects. In contrast, the government may 'legally' uproot people to make way for infrastructure and oil/mining operations. It is worth mentioning that while the latter sectors have effectively been granted an 'expropriation free pass', other kinds of investments (e.g. dams or urban renewal) require a specific 'declaration of public utility and social interest'<sup>125</sup>. In theory, such a system (in contrast to the blanket declaration covering the oil and mining industries) permits an analysis of whether the project in question actually serves the 'social interest' or at least the weighing up of certain and potential losses against projected benefits. However, the decision is often biased by a generalised obsession with profits and growth.

There is no register of people 'legally' dispossessed and/or displaced by the Colombian government and associated companies. And even if there were, the numbers would probably be misleadingly small for reasons explained in Chapter 6 and elaborated on below. However, it is plausible that cases of 'legal' dispossession outnumber instances of 'illegal' usurpation by the para-elite - the issue simply hasn't received the same attention.

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<sup>125</sup> For example, the Ituango Dam was declared a project of 'public utility and social interest' via Resolution 317 of 2008, conferred by the Ministry of Mines and Energy; this guarantees that Hidroituango can procure the land required for its operations within an area totalling 24,596 ha.

The first section examines diverse mechanisms and forms of dispossession that, at least in the abstract, exist independently of the armed conflict. It illustrates the importance of property rights violations and restrictions in mobilising land for capitalist development - thus bolstering the propositions put forward in Chapter 2. I stress how many transfers and use agreements that appear voluntary on paper are in fact forced under the threat of legal proceedings. This allows investors to secure land at below market prices, without the need for direct intervention by the State. In the case of coerced sales, the upshot is that payment is often insufficient for the dispossessed to purchase land elsewhere. In the case of coerced easements, this may lead to indirect or environmental dispossession and displacement - these losses are rarely reflected in the small sums people receive in exchange for use rights over their land. People who lack formal titles tend to fare even worse. Ironically, many of those denied compensation for their land because they lack legal titles were/are unable to access a title precisely because the law prohibits titling in areas with oil and mining operations or because the land has been 'reserved' for such investments.

The remaining sections of the chapter survey the multiple ways in which the conflict-context, especially counterinsurgency warfare, has facilitated the imposition of mining, oil and infrastructural projects backed by the State's taking powers. I point out that counterinsurgency (CI) warfare is partly motivated by a desire to secure space for capitalist development -the Colombian and US governments have explicitly stated that one of their main aims is defend investors against guerrilla attacks- and that CI doctrine openly contemplates the *deliberate* displacement of civilians as strategy for weakening the insurgency. I also emphasise how the funding of the Colombian armed forces by private firms entrenched the relationship between violence and economic interests, further eroding State legitimacy in affected regions.

Section two focuses on how displacements in the conflict-context have served State-backed investments. Sometimes, so-called 'conflict-induced displacement' was actually aimed at clearing the land to make way for these projects. In other instances, mass displacements inadvertently facilitated the corporate take-over. Policymakers across the world insist that conflict- and development -induced displacement are separate and distinct phenomena. In reality, however, this distinction is often untenable (for a full critique of the conventional categories of forced displacement see my article: Thomson, 2014). This has become a point of contention in Colombia (see e.g. El Espectador, 2014c; Verdad Abierta, 2015; Wahlin, 2015). On the one hand, many people displaced for mega-projects demand to be recognised as IDPs, but government functionaries and business representatives

emphatically reject the use of this label for those uprooted by ‘development’<sup>126</sup>. On the other hand, even those registered as IDPs demand recognition that their displacement was not ‘caused’ by the armed conflict but because of investment interests in the region<sup>127</sup>. In brief, this section not only serves to further elucidate how dispossession and displacement unfold in Colombia, but also to challenge established concepts that allow policymakers to discriminate between processes that violate human rights and those that are alleged to uphold them (see e.g. footnote below).

Section three provides a couple examples of how the para-elite land grab aided investments guaranteed by eminent domain powers, while section four provides a brief discussion of the broader ways (i.e. beyond displacement and violent land grabs) in which counter-insurgency warfare has facilitated the imposition of State-backed projects, focusing specifically on the intimidation and silencing of critics and opponents. In addition to shedding light on the diverse ‘mechanics’ of dispossession, I aim to highlight how ‘legal’ and ‘illegal’ practices and processes intertwine.

### **1) The varied forms and mechanisms of dispossession for State-backed projects**

This section discusses varied forms and mechanisms of dispossession, associated with investments underwritten by the State’s taking powers, most of which are ‘legal’. The categories used below are for analytical convenience and do not imply real-world separation. For example, at least 16 communities in La Guajira -a department in northeast Colombia- were displaced by the coal mining firm Cerrejón between 1985 and 2015 (CINEP, 2016, p. 18 and 25); these processes were diverse, involving coerced land sales, expropriations, the ‘reserve’ and ‘recovery’ of State land, evictions, indirect dispossession

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<sup>126</sup> For example: in March 2013, some 370 people occupied a gymnasium in Medellín, proclaiming themselves displaced by the Ituango Dam. They reported that “*threats against them from different armed actors and from State and [the firm’s] private security personnel [... combined with] the lack of subsistence for those who had depended on traditional mining*” obligated them to leave their homes (Wahlin, 2015, p. 31, emphasis added). Perhaps if they had limited their denunciations to intimidation by illegal armed groups, the State would have recognised them as IDPs, but Colombian law does not recognise people uprooted by ‘development’ projects as ‘displaced’ and hence the government refused to include them in the register, barring them from accessing humanitarian aid during the 6 months they lived in the gymnasium (*ibid*, pp. 31-33).

<sup>127</sup> One woman told the Inter-American Commission on Human Rights: “the dozens of mining and energy mega-projects planned for the zone were the real causes of my displacement”. She asked: “how many of us are really expelled by the armed conflict?” (cited in El Espectador, 2014c). A State representative responded: “there haven’t been any displacements [for these projects] but instead protection of rights [...] via the imposition of certain obligations on the companies” (*ibid*).

due to ecological devastation (favouring further property transfers to the company) and in some cases -but not all- organised involuntary resettlement. For lack of space, I have excluded or limited the discussion of certain strategies used by companies and the State to counteract resistance to such projects, such as: ‘divide and conquer’ tactics and the propagation of conflicts within communities, withdrawal or relocation of public services, militarisation of the area by government forces and private security firms, sabotage or surveillance of community meetings, misuse of attendance and other lists with participant signatures as evidence of consent, and so on and so forth (Personal Interviews 2014-2015, see also Contravía TV, 2017; CINEP, 2016; Ó Loingsigh, 2013).

(i) *Sales coerced under threat of expropriation*: Most land acquisitions for mining, oil and infrastructure projects are achieved through private transfer. Under Colombian law, companies are expected to attempt negotiations with landowners before soliciting State intervention. However, the fact that a company does not rely *directly* on the State’s taking powers, does not mean these are voluntary transactions, regardless of the fact that the legal discourse explicitly labels them so. An inhabitant of Marmato, a town slated for destruction for an open-pit gold mine, explained:

It’s like a forced displacement because we don’t want to leave. [...] They would say that if we didn’t sell our house, then later the machines would come, there would be slopes [*taludes* - prone to landslide], the lands would devalue and then who would buy? And if we didn’t sell, then they would expropriate us, the government would expropriate. People were scared. That psychological terrorism made many people sick (Personal Interview, 2014).

There are similar stories from across the country. According to CINEP (2016), people affected by the Cerrejón mine faced multiple pressures, including the threat of expropriation, and as a consequence accepted payments “below the prices of the parcels and what the families needed to establish a new home” (p. 18). Inhabitants of Albania, neighbouring Cerrejón, told journalists they had been forced to sell for between \$15,000

and \$25,000 pesos per ha; or between \$5 and \$50 USD, depending on the date of the sale<sup>128</sup>. In addition to the expropriation ultimatum, unequal power relations clearly affect people's ability to negotiate, so that low-income farm/home owners are more likely to be exploited.

Occasionally, companies decide standard compensation amounts in advance<sup>129</sup>, indicating that land prices are non-negotiable. A report on the Hidroituango dam project in Antioquia (which used a standardised compensation scheme) notes: "Some say that the payment they received for their land was too low and that [the firm] EPM didn't give them the chance to negotiate a better price. Given that the construction is considered in the public interest, landowners are obligated to sell" (Wahlin, 2015, p. 22).

An article on the Quimbo dam in Huila suggests that the amount offered to landowners was based on values in the cadastre (Verdad Abierta, 2015), which in Colombia are typically much lower -some times as much as 15 times lower- than commercial prices (Sarmiento, 2018). So, again, payments may be insufficient for the dispossessed to acquire replacement land<sup>130</sup> (this is a common problem across the world, see Cernea, 1995, p. 253). Sometimes landowners are offered a choice between monetary compensation and relocation; in the latter case, it is the company that has to ensure the dispossessed have access to new farm or house; however, as discussed below, involuntary resettlement brings its own set of problems.

I do not wish to imply that *all* property transfers linked to State-backed investments are coerced. But those who sell willingly usually have little attachment to the land and tend to have the power, knowledge and resources to negotiate a 'fair' price. To reiterate: many, perhaps most, land transfers achieved under the threat of expropriation are *not* voluntary transactions, though they have a legal appearance as such. It should be noted that these coerced sales also affect people who do not have formal property rights; often, in these cases, the firm offers to pay for constructions and crops, but not the land itself.

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<sup>128</sup> The article does not state the year of these sales but suggests they were some time ago; from 1990 to 2010 the exchange rate fluctuated between 500 and 2,877 COP per USD (see [OECD webpage](#)).

<sup>129</sup> See, for example, [Hidroituango's Manual](#) (Resolution 18 0557 – 09/04/2010), which establishes a complex, but standardised, method for land valuations.

<sup>130</sup> The Quimbo dam project had initially been denied an environmental license on the grounds that it would affect thousands of hectares of productive lands and that it would be difficult to 'restitute' displaced farmers. When the licence was finally granted in 2009, the Environmental Attorney General objected, arguing that Huila has insufficient productive lands (Semana Sostenible, 2016a).

(ii) *Forced transfers of use rights or easements*: In the case of pipelines, roads, and other constructions that occupy relatively small areas, a company may opt for the acquisition of use rights (an easement or *servidumbre*) over portions of land. The interested company is expected to negotiate privately in the first instance, but if the landowner refuses, the company can resort to legal proceedings to gain these rights. Evidence suggests such litigation is unusual; many easements are secured via agreements that appear voluntary on paper but -like coerced sales - are in fact governed by the State's taking powers.

In Putumayo, oil companies sometimes simply use land without acquiring an easement and even without giving notice (CIJP, 2014). The denial of use rights payments to people who don't have formal land titles is seemingly common, despite the fact that the law regulating *servidumbres* requires equal treatment of owners, possessors and occupiers. Even if compensation is offered, this is often very low, especially in the case of landholders or owners with little negotiating power. For example, one farmer received a one-off payment of about 300 USD for the installation of a hosepipe that would dump wastewater on his farm for the duration of an oil project (CIJP, 2015b). Media reports reveal that this sort of thing occurs in other parts of the country also (Almario Chávez, 2010; Corcho Tróchez, 2013). However, the dynamics surrounding easements are, on the whole, poorly documented. Those cases that make the news usually do so because the land holder or owner has made a legal complaint, which is beyond the reach of many *campesinos*.

Some may object that easements should not be categorised as dispossession. This objection may be valid in some instances (e.g. the installation of a telephone wires), but certain types of infrastructure (especially, but not only, oil pipelines) can partially or completely inhibit farming activities, or more generally make living on the land unbearable and, in some cases, may force the affected person to abandon their home entirely. This is discussed below under 'indirect or environmental dispossession and displacement'.

(iii) *Expropriation*: As already noted, if a landowner refuses to sell land required for a project of 'public utility or social interest', then the interested company can solicit expropriation proceedings on its behalf. The type of expropriation (administrative or judicial) and the entity in charge of the process depends, among other things, upon the project itself. In the case of mining, oil and dam investments, for example, expropriation is usually handled by the Ministry of Mines and Energy. For urban regeneration, the Mayor's Office may be in charge. Governors can also exercise 'eminent domain' powers. The list



could go on. This is one reason it is difficult to get comprehensive data about expropriation in Colombia; it would require sending Freedom of Information requests to hundreds of different entities.

Based on just two FOI responses, it is clear that the majority of recent expropriations for *mining* have taken place in César and Guajira, the country's main coal producing regions. Of the 52 expropriation cases listed by the Ministry of Mines and Energy, 37 were in César and the majority were initiated between 2006 and 2009. The information supplied by the National Mining Agency indicates that 147 of the 159 properties subject to recent expropriation proceedings (114 of these were initiated in 2015) were advanced on behalf of Carbones de Cerrejón, which operates Colombia's largest coal mine and is owned by the multinationals BHP Billington, Anglo American and Xtrata.

According to CINEP (2016), multiple properties in Manantial, Caracolí, Espinal and Tabaco (La Guajira) were also expropriated in the late 1990s and early 2000s, to make way for Cerrejón's operations (p. 17). A news article on the eviction carried out in Tabaco indicates that some lands were legally transferred to the company *prior* to the completion of the expropriation proceedings (*entrega anticipada*), meaning that people were evicted before receiving compensation. One inhabitant commented: how will they do the valuation if our houses have been torn down? (El Tiempo, 2001a; see also CINEP, 2016, p. 17).

(iv) *Dispossession via the 'reserve' and 'recovery' of State lands*: Expropriation, in the technical sense, does not apply to State lands; to the extent that any official procedure accompanies the dispossession of people living on these lands, it involves the declaration of the lands as 'reserved', sometimes followed by a process called '*baldío* recovery'. People subject to such forms of dispossession do not usually receive compensation for the land itself, but only for the value of their crops and homes and in some cases not even those. Again, this means payment is often insufficient for people to acquire land and re-establish elsewhere. An example of the use of this juridical figure is the displacement of farmers in Arauca to make way for oil operations.

In 1993 the government declared the *baldío* lands surrounding the Caño Limón oil field as a 'reserve' of the State. In 1995, hundreds of people were displaced to make way for the oil complex. Decades later -and despite a 2011 court order- the government had failed to resettle the community as promised. In 2013-2014, following almost twenty years of

‘protracted displacement’<sup>131</sup>, some families decided to return to their lands. Responding to the demands of Occidental Petroleum, police have tried to forcibly evict these families at least six times since their return (Colombia Informa, 2014, 2015).

Similarly, in La Guajira, large portions of State lands, ancestral territory of the Wayuu, were declared as ‘reserves’; at least four of these areas were conceded to Carbocol for the Cerrejón mine, preventing the lands from being titled to inhabitants (CINEP, 2016, p. 20). It is worth recalling that even without a ‘reserve’ declaration, Colombian law bars the titling *baldíos* within a 2.5 km radius (prior to 2014, this was a 5 km radius) of oil and mining operations. All across the country, farmers, indigenous and afro communities have been denied individual and collective (respectively) titles over their lands for this reason.

A leader from Yu’ Çxihme *cabildo* in Puerto Caicedo, Putumayo explained: “We have been asking for the *resguardo* for 15 years. Because there are oil wells in the territory, they don’t want to recognise it as ours. It’s been a struggle and a fight. We’ve had very few answers” (Personal Interview, 2015). In the Putumayo department alone, there are some 9,744 individual land title applications pending, plus 106 for collective titles and 43 applications for the expansion of existing *resguardos* without resolution. The majority of unresolved applications are for lands within oil producing municipalities (CIJP, 2015b).

(v) *Occupation of collective territories and prior consultation*: As explained in Chapter 6, Afro and indigenous communities whose territories are under collective title are subject to a different type of State-sanctioned dispossession. This does not involve the transfer of property rights; the land is simply occupied by the company. In order to be recognised as a ‘legal’ occupation, the firm has a duty to conduct a prior consultation.

It is worth noting that the law recognises areas used and inhabited by indigenous and Afro groups as their territory and demands prior consultation for intervention in these lands even when they don’t have a formal title. However, this rule is regularly ignored and State lands, which are in fact indigenous or Afro territories, are often conceded to oil and mining companies (see above). Qualitative research suggests those groups without

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<sup>131</sup> The forced migration literature usually defines displacement as “protracted” if the displaced person lacks a “durable solution” for a prolonged period of time. The person is neither permanently/adequately settled elsewhere, nor is able to return home. The most obvious example is when people spend years living in a refugee camp (see: [this 2009 issue of Forced Migration Review](#)). In the case described above, it is clear that many of the displaced families were unable to find a ‘durable solution’ or they wouldn’t have returned almost two decades later, despite the risks.

collective titles are particularly vulnerable to involuntary resettlement and evictions; for example, the communities uprooted to make way for the Cerrejón mine were indigenous, Afro or a mixture of the two – it seems none of them had collective titles (CINEP, 2016).

Even in areas protected by a collective title, companies habitually evade their obligation to carry out prior consultation. When consultations *are* carried out, these tend to be conflictual and/or superficial (Personal Interviews, 2014-2015; ABColombia, 2012, pp. 15–17; Molano Bravo, 2009). Finally, as argued previously, because affected communities are denied the power of veto, the consultation process itself can become a mechanism of dispossession. In 2010 *alone*, 121 prior consultation processes were implemented, 60 of which were for oil operations, 11 for mining and energy investments, and 34 for infrastructural projects (Comisión Colombiana de Juristas, 2011, p. 47). Land occupations ‘legalised’ through prior consultation often lead to indirect -environmental- dispossession and displacement (see e.g. CINEP, 2016).

(vi) *Enclosure and loss of public space*: Mining, oil and large-scale infrastructural investments often involve the enclosure of public space. Riverbanks and surrounding areas are particularly susceptible. People affected by hydroelectric and extractive projects commonly proclaim that the river was ‘taken’ from them (see e.g. Caracol Radio, 2011b). Often, this is quite literally the case. Those whose livelihoods depend on fishing and gold panning are especially affected by the enclosure of surrounding land, prohibitions on river use and/or alterations to the watercourse itself (see e.g. Wahlin, 2015; Verdad Abierta, 2015). Of course, they are not the only groups affected by ‘water grabbing’. In many parts of Colombia, daily life is constructed around the river; especially, but not only, in areas with no commercial water services. Forests used for hunting, the gathering of medicinal plants and firewood, traditional ceremonies and transit by foot may also be cordoned off, destroyed or converted into privately owned nature reserves that are supposed to compensate for the negative ecological impacts of the project (Personal Interviews 2015; CINEP, 2016; Semana Sostenible, 2016a).

(vii) *Indirect or environmental displacement and dispossession*: Often people who were not immediately or directly uprooted to make way for a project end up losing their livelihoods or having to leave their homes due to the environmental impacts. Such cases are similar to what the US property law scholars call ‘indirect takings’. The following is a commonly used

example: a government constructs a dam, which floods an adjacent farm, making agriculture on that land unviable. The land has effectively been ‘taken’ from the farmer without an official process. However, the literature on indirect takings tends to focus on land use restrictions and how government regulations impact upon property values (US Department of Justice, 2015; Chayes et al., 2008). Here, the focus is on what some observers refer to as ‘environmental displacement’ (Roa Avendaño, 2016). I provide just a few examples in order to illustrate my point.

In 2006 British Petroleum (BP) agreed to pay compensation to a group of Colombian farmers who were left destitute due to the construction of the Ocesa oil pipeline. (The company was also accused of profiting from a reign of terror imposed by paramilitary groups, which violently repressed any attempts to challenge the project). The case was brought to a UK court in 2005, in part due to death threats against the Colombian lawyers representing the farmers. In the end, BP chose to negotiate an out-of-court settlement, presumably to avoid “admissions of liability” (Verkaik, 2006; Business & Human Rights Resource Centre, 2015a). In 2008 another group of farmers affected by the same pipeline filed a separate claim against BP in a UK High Court. They accused the company of negligence and demanded compensation for lost income due to impacts on water sources and soil erosion (Lee, 2014; Vidal, 2015). The installation of the pipeline “drastically reduce[d] production *and cause[d] some farmers to leave the land*” (Leigh Day & Co, 2008, p. 21, emphasis added).

In César, inhabitants of El Hatillo have been demanding official resettlement and resisting indirect dispossession and displacement. They started denouncing problems caused by the neighbouring coal mines in the late 1980s and early 1990s: respiratory, skin and other illnesses, the failure of their subsistence crops, the contamination of the River Calenturitas and its diversion to suit the needs of the coal operations. In 2010, the Ministry of Environment, Housing and Territorial Development ordered a number of firms to coordinate the resettlement of El Hatillo, in addition to two other communities (Plan Bonito and Boquerón) – the resolution (No. 0970, 20/05/2010) stresses that relocation is necessary due to the risks posed by air pollution caused by the mine. As of 2017, the people of El Hatillo had still not been resettled. Unidentified armed actors (most likely paramilitary successor groups) regularly threaten and intimidate inhabitants. A community leader from El Hatillo, Aldemar Parra, was murdered in January 2017 (Contravía TV, 2017; Verdad Abierta, 2017a).

Similar stories exist across Colombia, many of which never reach the stage of legal proceedings and do not end with any form of reparations for the communities affected. The *intermediate* causes (the underlying cause is, of course, the investment project itself) of indirect dispossession and displacement are diverse and may combine, for example: significant declines in production or total loss of crops due to a rise in ‘pests’ or the loss of wild pollinators following deforestation, soil contamination, depletion/contamination of hydric sources used for agriculture; a decline in fish catches due to pollution; intolerable living conditions due to noise and light pollution and health problems caused by the project (further examples of indirect dispossession and displacement caused by the oil industry in Avellaneda Cusarí, 2004, pp. 472–478; Moreno & Ussa, 2008; caused by mining operations in CINEP, 2016; caused by hydroelectric projects in Roa Avendaño, 2016; Semana Sostenible, 2016a; Wahlin, 2015). As noted by researchers from CINEP (2016), such adverse conditions often pressure people into selling their land or homes at low cost (p. 15).

(viii) *Involuntary resettlement*: With this category I refer to official relocations, carried out by a company or the government, usually to new settlements constructed for the purpose<sup>132</sup>. It is beyond the scope of this thesis to detail the harms (e.g. mental health issues, deterioration in living standards, loss of incomes, cultural and social disintegration) typically caused by forced displacement (for a succinct, but still incomplete, summary, see Cernea, 1995, pp. 251–252) -many of which are shared by people forced to flee by the armed conflict and those uprooted by economic projects, including under official relocations. The specific impacts on indigenous and Afro communities, with a strong spiritual attachment to their land, would add another layer of complexity to such an analysis (see e.g. CINEP, 2016). Here I give just a few specific examples.

As of 2015, two of the four the settlements built for those displaced by the Quimbo dam in Huila lacked access to running water, while none had the promised irrigation system (Verdad Abierta, 2015). People relocated to make way for the Sogamoso hydroelectric

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<sup>132</sup> In some ways, those subject to involuntary resettlement are ‘fortunate’ compared to the unknown numbers of people affected by investment projects who have been excluded from such schemes. According to CINEP (2016), Cerrejón and its contractors would divide communities by categorising families into ‘eligible’ and ‘not eligible’ for resettlement (pp. 22-23). Complaints of exclusionary censuses used to decide who should be included in compensation and/or resettlement schemes are common. In the case of El Quimbo dam, the Constitutional Court intervened in 2013, ordering the company to conduct another census. The original census had included 3,000 people. In the second round, 28,000 applied but 13,000 applications were rejected (Verdad Abierta, 2015; see also Semana Sostenible, 2016a; Roa Avendaño, 2016; Wahlin, 2015; CINEP, 2016).

project in Santander also reported lack of access to water in the resettlement locations, in addition to other problems with the productive schemes that were supposed to replace their lost livelihoods (Roa Avendaño, 2016). In the case of El Hatillo in César (see above), which as of 2017 was still awaiting resettlement, inhabitants were offered just 1.5 hectares per family. The companies argue that the land the community currently lives on is owned by the State (which refused to grant them property rights precisely because of laws preventing titling in areas affected by mining) and, as such, that they have no obligation to compensate for the terrain itself, which the people of El Hatillo have cultivated for generations (Contravía TV, 2017).

(ix) *Evictions*: The forms and mechanisms of dispossession described above may or may not be accompanied by eviction or the forcible physical removal of people from their homes and places of work. Often, evictions are simply the most visibly violent facet of a more complex and longer process. Consider the case of Tabaco. According to the José Alvear Restrepo Lawyer's Collective, the firm Carbocol-Intercor (now Cerrejón) "had offered the inhabitants of Tabaco derisory sums of money" for their farms and homes. The company and the State started pressuring those who refused the offers: they cut off public services, withdrew teachers, closed the health centre and church, and prevented transit in the area. CINEP researchers note: "all these pressures led many families to sell their land at any price" (p. 17). In 1999, the Ministry of Mines and Energy ordered the expropriation of lands that the company was unable to acquire through private transactions. And, in 2001, the remaining inhabitants of Tabaco were evicted. In 2002, the Supreme Court instructed the Mayor's Office to resettle the Tabaco community within 48 hours; as of 2017, this instruction had not been fulfilled, and 15 years on many were still "waiting for resettlement" (Colectivo de Abogados José Alvear Restrepo, 2017; CINEP, 2016, p. 17).

Nevertheless, in other cases, eviction is the sole mechanism of dispossession; there are no prior attempts at coerced sales, no resettlement negotiations – the police simply remove people from their land. This seems to be what happened to a group of farmers in Puerto Gaitán, Meta. In 2011, excavators were brought in to tear down their homes. Some 150 families settled on the disputed terrain in the mid-1990s. Almost 15 years later, in 2009, a woman who asserts ownership over the land signed land use contracts (*servidumbres*) with the oil company Hocol and sought permissions to evict the families living on the land. Journalists note that inhabitants questioned the validity of the land title used to justify their eviction; one of their leaders, Enoc Hernández, was murdered in 2010 (Noticias UNO, 2011).

Gold panners in Antioquia have been subjected to a similarly crude process. These artisanal miners, many of whom are itinerant and live in temporary shelters on the banks of the River Cauca, represent the majority of the estimated 900 people evicted between 2011 and 2015 to make way for the Ituango Dam; most were deemed ineligible for compensation or resettlement (Wahlin, 2015).

## **2) Armed conflict and land clearance in zones slated for State-backed investments**

Across Colombia, mass displacements, apparently ‘caused’ by the armed conflict, have occurred just before and/or amidst the imposition of State-backed investments. According to one estimate, 87% of forced displacements and 80% of human rights violations in Colombia occur in mining-petroleum municipalities (Ramírez Cuellar, 2011, cited in Vargas Valencia, 2013, p. 63). There is evidence indicating that, in some cases, so-called ‘conflict-induced displacement’ may have in fact been a deliberate strategy of land clearance for these State-backed projects; however, this is very difficult to prove. Regardless of whether violent displacement was *intended* to do so, it has certainly facilitated corporate land occupations. Fewer inhabitants within an investment zone means fewer people to consult and negotiate with, fewer to compensate or resettle and less opposition to the project (Ó Loingsigh, 2013, p. 86). Before proceeding with some illustrative examples, several points deserve consideration.

(1) Guerrilla groups are notorious for attacks on oil, mining and other infrastructure, extorting ‘war rents’ from companies, and kidnapping or assassinating their employees. This posed serious difficulties for State-backed investments in some areas. The exact opposite could be said of paramilitary groups, which -historically at least- have worked alongside the army to defend national and international investors against the armed insurgency, as well as unarmed social movements. In this sense, counterinsurgency (CI) warfare closely intertwines with investment interests (see also Grajales, 2013). The latter claim is easily substantiated. For example, US government functionaries overtly affirmed the importance of Colombia’s oil resources in their validation of the USA’s provision of military aid to the country (Stokes, 2005, pp. 124–126). Mass displacements are almost always the outcome of paramilitary and military incursions; CI operations clear areas not only of guerrilla combatants, but also segments of the civilian population, and this clearance benefits State-backed projects.

(2) Official narratives may advise that the objective is to clear the area of armed insurgents, not civilians. However, as explained in Chapter 6, CI doctrine defines the enemy widely so as to include civilians deemed ‘subversive’. Entire communities living in areas traditionally occupied by the guerrilla may fall into this category. Wresting control from insurgents is often thought to require the displacement or even assassination of presumed ‘collaborators’. CI discourse calls this ‘draining’ the ‘water’: in uprooting the civilian population (the water), the rebels (fish) are exposed (see e.g. Downes, 2007). So, counterinsurgency operations, which are at least partially motivated by a desire to secure space for capitalist development, often comprise the forcible displacement of civilians who, in addition to armed subversives, are themselves deemed obstacles to this development (i.e. civilian displacement is not ‘collateral damage’). It is worth emphasising that the treatment of people as obstacles is not just inferred, it is often stated rather openly. For example, various news reports discuss the “issue of the communities” as “a stone in the shoe”, hindering the oil and mining sectors and Colombia’s development (see e.g. El Colombiano, 2017a; Portafolio, 2013b; Semana, 2015).

(3) Close cooperation between extractive industry firms and government armed forces and the private financing of public defence further complicate this issue. For at least 20 years, oil and mining companies have been signing ‘collaboration agreements’ with the Colombian army, in which the former contributes resources (in money or in kind) in exchange for special protection. Company facilities often double as military bases and their private security firms frequently work with local army units<sup>133</sup>. This contributes to a situation in which government forces prioritise the demands of private firms over their duty to protect civilians. It is relatively common for inhabitants to observe a deterioration in security conditions following the arrival of an oil, mining or hydroelectric company (CINEP, 2016; Wahlin, 2015). Consider the following fragments of testimonies from Putumayo, which provide a mere taste of a recurring theme:

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<sup>133</sup> Perhaps the most cited case involves Occidental Petroleum and the private military contractor AirScan, accused of complicity in the 1998 Santo Domingo massacre in which a Colombian air force helicopter dropped a cluster bomb on the village (near the Caño Limón oilfield), killing 17 civilians - among them 6 children- and injuring a further 27. The plane that accompanied the bombardment was provisioned by AirScan. Airscan is said to have managed aerial surveillance and to have defined the targets. It is also alleged that Occidental provided space in its facilities for planning and other resources such as fuel and logistical support. The event led to the displacement of the entire village (Inter-American Court of Human Rights, 2012; US Court of Appeals, 2014).



“They say that you provide security for us, but that is a lie”, I told him [the soldier]. “You are only working to protect the multinationals. What do they pay you?” He said: “yes, that is true, but if those are the orders, we have to do it”. [...] I have told them: “you are protecting something that isn’t even yours”. “You say that you are protecting a community, a population, but in reality you are not. When you arrive in this territory I feel unsafe. Your presence doesn’t make me feel secure”, I told him (Inhabitant of Jerusalén-San Luis, Personal Interview, 2015).

The army started to hassle us when the oil company arrived [...] Six months after the oil company was established, the soldiers tortured people to make them ‘sing’ [provide information]. There was one man they shot in the ears; they burnt him with cigarettes on his testicles. I remember one of the young men they got; he was a noble worker. [...] They had been trying to build the oil platform since the year 2000, but the guerrillas kept knocking it down. Then they stopped knocking it down and started imposing a tax of 50%. The company didn’t accept and that’s when the military strengthened and then came the repression. [...] They built the military base in 2002 to protect the oil company. Since then there is no peace (Inhabitant of the Amazon Pearl PRZ, Personal Interview, 2015).

The armed forces have not only defended companies from insurgent attacks, but also (whether directly or indirectly) from civilian strikes and protests. This ‘special relationship’ is particularly problematic given the long history of human rights abuses committed by the Colombian armed forces, as well as their close collaboration with and/or participation in paramilitary groups. Despite reiterated allegations, oil and mining firms operating across Colombia continue(d) to enter into official and unofficial collaboration agreements with the armed forces (Business & Human Rights Resource Centre, 2015b; Moor & Van de Sandt, 2014; Dunning & Wirpsa, 2004; Gillard, Gomez, & Jones, 1998; HRW, 1998).

(4) In addition to being connected with paramilitary violence through security contracts with the Colombian army, many mining and oil companies maintained a more direct relationship with the paramilitaries. (Note: dozens of firms from other sectors also collaborated with paramilitary forces, but my focus here is on the traditional extractive

industries.) Representatives of the Texas Petroleum Company, for example, are said to have been present at the 1982 meeting responsible for founding the death squad MAS or ‘Death to the Kidnappers’ (HRW, 1996). More recently, legal proceedings against various demobilised paramilitaries revealed details of their alliance with the French multinational Parenco. The company is said to have provided funds to the paramilitaries, as well as vehicles and oil. One ex-combatant proclaimed: “We collaborated, and those people financed the organization and had voice and vote” (cited in Quevedo, 2012). British Petroleum has also been implicated in paramilitary violence (see e.g. Coleman, 2015a, 2015b). Ex-paramilitary, Salvatore Mancuso declared that “all those oil companies [operating in the eastern plains] paid” money to the AUC (Versión Libre Salvatore Mancuso, 2007, pp. 27–28, 2009, p. 92).

The NGO PAX’s investigation into the links between paramilitary violence and coal mining in César is particularly revealing. Demobilised combatants claim that the paramilitary expansion in César, between the late 1990s and early 2000s, was requested, encouraged and funded by the two major coal mining firms operating in the region: Drummond Colombia (a subsidiary of the US multinational with the same name) and Prodeco (acquired by the Swiss company Glencore in 1995). In addition to protecting the companies and their personnel from guerrilla attacks, the paramilitaries also threatened and murdered labour union members and displaced inhabitants from lands required by coal businesses (Moor & Van de Sandt, 2014, pp. 48–73; see also CNMH, 2012c, pp. 135–136). Ex-paramilitary alias Bam Bam affirmed that fellow fighter alias Jhon was “the main person in charge of expelling people from the land that Drummond wanted for its railway line or for other operations. This included assassinating or displacing the people who refused to abandon or sell their land” (cited in Moor & Van de Sandt, 2014, p. 70). The paramilitaries killed more than 3,000 people in the César mining zone between 1996 and 2006 and displaced more than 59,000 (*ibid*, pp. 28–32).

(5) Whatever the intentions of the government and the paramilitaries, many inhabitants believe that the true purpose of counterinsurgency and related counternarcotics operations is land clearance. Most of the people I interviewed in Putumayo, for example, expressed the view that the army’s objective is to secure land for the oil companies. The narratives of people from North Santander are similar: “The army burned the Barí with planes. [...] to make them flee from their territory so they could explore for oil” (cited in IDMC, 2007, p. 61). As noted in a Constitutional Writ: a combination of factors “has reasonably led multiple indigenous groups to perceive the situation as a

generalized strategy of de-territorialisation or appropriation of their territories, with the approval of the State” (Corte Constitucional, 2009, p. 18). This perception is by no means limited to indigenous groups. A peasant farmer from Magdalena explained: “We say that displacement is a policy constructed by the state [...] displacement happens where there are riches, like gold; where there are coal mines; where there is good, fertile land where they plan to create palm plantations” (cited in IDMC, 2007, p. 128). The ubiquity of this view has multiple and complex implications, not least for the legitimacy the State, its development model and ‘peace building’.

(6) As noted above, guerrilla presence within a given territory would often deter State-backed investments. However, paradoxically, the armed insurgency has also inadvertently enabled oil, mining and large-scale infrastructural projects. Though the militarisation of investment zones is not exclusively a result of guerrilla activity (as noted in Chapter 5, the oil industry in Colombia was militarised before the FARC and ELN existed), guerrilla attacks on oil pipelines and other infrastructure inevitably lead to retaliatory attacks by the armed forces. The resulting intensification of conflict weakens communities’ ability to organise and resist. It may also lead to forced displacements that further facilitate the entrance of the company.

In what remains of this subsection, I provide just two examples of how ‘legal’ state-led displacement in the name of development intertwines with displacement in the context of the armed conflict. Subsequent sections examine cases where evidence is sufficient to assert a direct connection between paramilitary-imposed dispossession and State-backed investment projects and, finally, the multiple ways in which counterinsurgency warfare has debilitated civilians’ ability to organise resistance to government-sanctioned land grabs.

Between 2011-2014, the municipality of Buenaventura, on Colombia’s pacific coast, had the highest levels of displacement in the country. While the media tends to focus on gangs (aka paramilitary successor groups) involved in drugs and arms trafficking, researchers and inhabitants claim the violence is also connected to a grand scheme, backed by multiple international investors, aimed at converting the town and surrounding area into a global trading hub. Buenaventura, it should be said, already accommodates the most important port in the country but, nevertheless, remains one of the poorest municipalities in Colombia. Future projects and those underway include: the expansion of port infrastructure, tourism complexes, a new airport, railway connections, and the widening of the road connecting Buenaventura to the rest of the country. The areas targeted for tourist and port infrastructure are inhabited by circa 100,000 people. Local authorities argue that

these communities are at risk from natural disasters and must be resettled for safety reasons. The official relocation program (itself involving violent evictions) is being implemented amidst a regime of paramilitary terror, which has caused at least 10 mass displacements from precisely the neighbourhoods the government wants to demolish. Dozens of local activists in Buenaventura have been murdered over the years (CIJP & Mundubat, 2015; Ó Loingsigh, 2013, pp. 107–117; Molano Jimeno, 2013). In January 2018, hitmen gunned down Temístocles Machado, a well-known community leader. In the case of Temístocles, even mainstream press insinuated that the murder was a response to his work defending the poorest neighbourhoods against land grabs motivated by the expansion of town's port infrastructure (El Espectador, 2018a).

Another example is the Ituango Dam mentioned earlier. In 2011, a Magistrate of the Justice and Peace Tribunal requested an investigation into whether paramilitary operations had favoured the Hidroituango project. One Public Prosecutor affirmed: “the principle obstacle to the project was the presence of the guerrilla. In 1996 the Mineros Block [of the AUC] entered Ituango and just two years later the [company] Sociedad Promotora de la Hidroeléctrica Pescadero SA was formed” (cited in Verdad Abierta, 2011d). Between 1996 and 1998 the paramilitaries committed more than 15 massacres in the area (Verdad Abierta, 2011d). Following the demobilisation of the AUC and more recently the FARC, this area of Antioquia is disputed between paramilitary successor groups, FARC dissidents and the ELN (El Tiempo, 2018). Examining figures for Ituango alone (the project spans various municipalities), the government register indicates there were more than 22,000 cases of displacement in the municipality during the decade prior (2000–2009) and more than 9,000 cases in the eight years since (RUV, 2017) the construction of Hidroituango began in 2010. It is likely that this displacement has favoured the project, indirectly at minimum. Two members of the Ríos Vivos movement, which opposes the Ituango Dam, were murdered in 2013 and at least 19 have received death threats. In 2014, two masked armed men told a group of people they would be killed if they continued protesting against Hidroituango (Wahlin, 2015, pp. 29–30, 33–34, 80–81).

### **3) State-backed investments and the para-elite land grab**

While in the above examples the information presently available is insufficient to categorically assert that the displacements caused by the paramilitaries were/are aimed at clearing the land for investors (this doesn't mean it isn't the case), in other instances the

connections are well-documented, in particular thanks to court proceedings and the testimonies of demobilised paramilitaries. This section examines para-elite land grabs that specifically served investments underwritten by the State's taking powers (i.e. that might otherwise have relied on expropriation or other forms of 'legal' government-backed dispossession). Examples focus on coal mining in César, but the phenomenon is not limited to this sector or region.

In 1997 INCORA acquired 1,300 hectares in the sub-district of El Prado (César) and assigned the land to 51 families who inhabited the former hacienda. The landholders were initially given usufruct rights and were promised titles at a later date. However, paramilitaries prevented this from happening. In May 2002, they assassinated and disappeared five people. In the months that followed paramilitary forces killed another 7 people from El Prado. As a result, 48 of the 51 families fled. INCODER functionaries claimed that they had abandoned the plots (ignoring that they were registered as IDPs) and re-assigned rights over the land to the new occupants, who were paramilitary figureheads. In 2009, INCODER began negotiations with Prodeco: in exchange for the hacienda, the coal company would provide replacement land for the occupants (i.e. paramilitary figureheads) and compensate them for their homes and crops. The original landholders initiated a lawsuit and have received repeated death threats in response (Moor & Van de Sandt, 2014, p. 77 and 79–80; see also CNMH, 2012c, p. 165).

One ex-paramilitary, Alias El Mecánico, testified: “they ordered our presence there to pressure the greatest number of people possible to sell their land [...] It was a place where they knew there was a lot of coal in the ground and where in the future Drummond or some other company, like Prodeco, would buy those parcels” (cited in Moor & Van de Sandt, 2014, pp. 77–78; see also CNMH, 2012c, p. 92). The coal mining firms evidently benefitted from this dispossession (they weren't going to face opposition from people who acquired the land to sell it), but these particular testimonies suggest those directly interested in the land grab were the paramilitaries and their allies. In other instances, however, State-backed investors are accused of authoring the dispossession. The case of Santa Fé exemplifies the latter.

INCORA acquired the Santa Fé hacienda (in Becerril, César) in 1989. Two years later, the reform institute divided and titled the land to 30 families. In the early 1990s, two of the Santa Fé *parceleros* were murdered by the army and the FARC. In the late 1990s and early 2000s paramilitaries committed four massacres and countless individual assassinations in the area (four of the victims were inhabitants of Santa Fé), resulting in another wave of forced displacement. The firm Carbones de Caribe started buying up land amidst the

violence. Over the years that followed, employees of La Jagua mine and paramilitaries pressured various Santa Fé residents into selling. Note that in at least three cases they used the threat of expropriation to achieve their goal (I. Rodríguez & Navarrete, 2017; Verdad Abierta, 2017c), exemplifying the intertwining of different forms of dispossession.

Various demobilised paramilitaries have testified that the Santa Fé displacements were motivated by interest in the land, that they held multiple meetings with functionaries of Carbones de Caribe, and that the firm paid them to prevent the return of the *campesinos*. Alias Samario explained: “we would displace the people and whoever didn’t want to leave we would kill them, as occurred in various cases [...] we got the land in Santa Fé for what they needed, the dump site and the [land] surrounding the mine” (cited in I. Rodríguez & Navarrete, 2017). 23 of the original *parceleros* applied for restitution under the 2011 law. This led to further threats against the claimants and even functionaries of the Land Restitution Unit (I. Rodríguez & Navarrete, 2017; Verdad Abierta, 2017c, 2018).

In another case, in the rural subdistrict of Mechoacán, abandoned lands were taken over by local elites and later transferred to the mining firm Drummond. Associated property rights required ‘cleaning’ first. So, INCODER functionaries (the ex-director of the regional INCODER office was found guilty of falsifying documents), with the help of a local notary, set about ‘laundering’ the land. According to Public Prosecutors, at least 32 transfers pertaining to land in Mechoacán were achieved using forged signatures; in three cases the alleged signatories were in fact deceased. By the time the Public Prosecutors’ investigations had advanced (in 2010 they froze 48 sales agreements and in 2012 declared 21 of these transactions invalid), the area had already been occupied by Drummond, and “was no longer apt for agriculture”, making material restitution to the original owners impossible (Moor & Van de Sandt, 2014, pp. 74–76 and 78; see also CNMH, 2012c, p. 166).

#### **4) The intimidation and silencing of critics and opponents**

In Colombia, it is surprising to find examples of infrastructural, mining and oil investments *not* tainted by assassinations, death threats and other forms of intimidation. This facilitates land sales, weakens communities’ during negotiations surrounding compensation and/or resettlement, and more generally undermines resistance to such projects. I have already mentioned some instances, such as the murder of community organisers in Buenaventura and members of the Ríos Vivos movement who oppose the Hidroituango project. Even the documented cases -let alone unreported ones - are too numerous to list.

It is worth emphasising the role of violence and intimidation in the occupation of Afro and indigenous territories specifically. As indicated previously, the dispossession of lands under collective title is officialised through prior consultation. The conflict-context has *further* skewed these ‘negotiations’ (on top of legal trammels) so that rather than being an opportunity for Afro and indigenous groups to exercise their ‘rights’, they have become yet another scenario of abuse (Personal Interviews, 2015; ABColombia, 2012, p. 17). Consider the example of consultations with Embera communities in Córdoba prior to the construction of the Urrá Dam: the “process was accompanied by threats from the ACCU [paramilitaries]. Displacements and killings of leaders who asserted their territoriality against the construction of the dam were characteristic during the late 1990s” (Grupo de Memoria Histórica, 2010, p. 163).

Persecution is often linked to large mobilisations, such as those organised by the inhabitants of Puerto Vega-Teteyé in Putumayo. Communities in the area started to mobilise around 2005, denouncing the impacts of oil activities in a context of relentless violence. Thousands of people participated in eight rallies between 2006 and 2014, as well as countless smaller actions. These movements have been under siege since their inception. A leader from the Kiwnas Çxhab resguardo recounted:

When the [oil] company arrived, they arrived with paramilitaries. They always portrayed the people that live in the zone as pure insurgency, but it was never like that. [...] There was no law that protected the campesinos. So, the community decided to occupy the road and protest. The conflict we were living was intense. Day after day people were killed or disappeared (Personal Interview, 2015).

There is a marked tendency in Colombia to stigmatise activists, including those fighting dispossession, as ‘terrorists’. In some cases, this has led to arbitrary detentions and legal persecution. More generally, large protests are often alleged to have been organised or promoted by the guerrillas. This is not only a way of delegitimising resistance, but also turns participants into (para-)military targets, putting their lives at risk (see e.g. CIJP Digital Archives, 2017; Wahlin, 2015, p. 29; El Espectador, 2008; Movice, 2010). In 2017 circa 1,000 members of different organisations gathered outside the Public Prosecutors’ Office in Bogotá to denounce “the criminalization of social leaders”, as well as the enduring paramilitary threat and aggressions against them more generally (El Espectador, 2017b).

## Summary and conclusion

The main ideas in this chapter can be summed up as follows: (1) State-backed investments are associated with multiple forms and mechanisms of dispossession and displacement, most of which are technically 'legal'. (2) These involve enclosure and privatisation, but also the violation and restriction of property rights. As suggested in Chapter 2, the latter are just as important to growth and capital accumulation as the former. (3) The State's taking powers act as a guarantee, which enables companies to *force* land sales and easement contracts at below market prices, without direct intervention by the government. Official discourse defines such private negotiations as voluntary, disguising the use of coercion and the ubiquity of property rights violations. (4) These coerced transfers and agreements, backed by eminent domain powers in the name of 'public utility and social interest', often entail a redistribution of wealth from labouring classes to capitalist enterprise. (5) People without formally recognised rights over their land tend to fare even worse than their counterparts with legal title. (6) In many cases, they were/are denied titles precisely because of restrictions that reserve lands for oil, mining and infrastructural investments.

While the forms and mechanisms of dispossession discussed in the first section of this chapter exist independently of the armed conflict, (7) in practice, they often connect with counterinsurgency warfare, (8) which is partially aimed at establishing a secure space for capitalist development. (9) Military and paramilitary incursions directed at wresting territorial control from guerrilla groups cause mass displacements that aid corporate land occupations. (10) In some instances, the expulsions were in fact aimed at clearing the land to make way for projects endorsed by the State, (11) revealing the tenuousness of rigid conceptual distinctions between conflict- and development- induced displacement. (12) This is most obvious in those cases where the para-elite land grab served State-backed investments, which otherwise would have relied on 'legal' mechanisms of dispossession and displacement. (13) Mass displacements and violent land usurpations are not the only ways in which the conflict-context has facilitated the imposition of mining, oil and infrastructural projects; counterinsurgency warfare has provided a pretext for the assassination, intimidation and criminalisation of people who oppose these investments, weakening communities' position during negotiations and resistance more generally. Overall, (14) understanding how dispossession and associated displacement unfold in Colombia requires a comprehensive approach that considers diverse forms and mechanisms, 'legal' and 'illegal', and how they overlap.



## Conclusion

This thesis analysed land dispossession in Colombia from a critical historical political economy perspective. I began by laying the conceptual groundwork and constructing a framework for the subsequent analyses. Using my research on Colombia and studies on other countries, I argued that conventional accounts of dispossession, as defined by orthodox economic and liberal political/legal paradigms, are inadequate. I presented critical political economy as an alternative to approaches that downplay history, power relations, social struggles, ideology and the wider context. Nevertheless, I also indicated why Marx's notion of primitive accumulation and Harvey's accumulation by dispossession, the concepts most commonly used in critical scholarship on land grabbing, are insufficient for approaching the issue. Building on these and other authors, I advanced some of my own arguments, in particular regarding the relationship between dispossession and capitalist development (chapters 1-2).

I suggested that the 'the capitalist growth imperative' creates systemic land pressures and considered why these pressures sometimes translate into dispossession or why land is acquired via coercive mechanisms rather than via voluntary transactions. I argued that the capitalist land regime is laden with internal contradictions and that, consequently, violations and restrictions of property rights are commonly used to secure land for capital accumulation and growth. Thus, extra-economic force (dispossession and displacement) continues to be integral to capitalist development even after private property and free markets in land are established. Overall, however, I argued that understanding land dispossession requires context-specific political economy analysis and that the character/prevalence of dispossession is contingent upon multiple factors (Chapter 2).

The remaining chapters of the thesis focused on the political economy of dispossession in Colombia, from the colonial era up to present day. Though this thesis is clearly defined by its historical perspective, my main concern was to explore contemporary land issues. I surveyed different forms and mechanisms of dispossession, in order to shine light on a variety of processes and *how* they actually unfold (chapters 7-8). This comprehensive approach -including land grabs effected by private agents and coercive State-backed acquisitions- differentiates my research from other investigations on the issue and offered new insights into what has happened in Colombia, where different forms of dispossession overlap.

I explained how violence, specifically counterinsurgency warfare, has facilitated the imposition of investments underwritten by the State's taking powers and how these projects intertwine with 'illegal' land grabs and expulsions (Chapter 8). I also showed how violent land usurpation and opportunistic/predatory acquisitions -forms of dispossession that are not endorsed by the State's taking powers- have served and been served by the government's economic development agenda (Chapter 7).

As explained in the introduction, recent dispossession in Colombia is often implicitly treated as an aberration of armed conflict. My research suggests, to the contrary, that the violent context has been just one among several enabling conditions. I paid particular attention to how the country's trajectory and policies of economic development, which were bolstered by counterinsurgency warfare (itself as much a political, economic and social undertaking as a military mission), fundamentally shaped dispossession.

Furthermore, I indicated why what has happened in Colombia doesn't fit well with stereotypical notions of wartime plunder or even more specialised theories of land dispossession in conflict contexts. Overall, government functionaries continued to perform their 'functions'. Notaries drew up public deeds for stolen lands, the reform agency granted titles to usurpers, registrars updated the land registry with these spurious deeds and titling resolutions, environment officials issued the land grabbers with relevant permits, others approved State-backed loans and subsidies for investments in the usurped lands, Mayor's offices signed eviction orders against the original landholders when they tried to return, and police enforced the evictions (Chapter 7). So, there is little evidence to suggest that dispossession was enabled by a collapse of institutions; to the contrary, their continued functioning was, in many ways, expedient for plunder and gave it an air of legitimacy.

Reflecting the exploratory nature of my research, this thesis put forward multiple empirical claims and related theoretical propositions. In the pages that follow, I provide a summary of some key ideas and arguments, organised around four themes: (1) interest in labour control versus the profit potential of new land uses in motivating dispossession; (2) the relationship between law and dispossession and how this is shaped by specific trajectories and visions of economic development and related pressures, power dynamics and social struggles; (3) how landed property rights may impede economic growth and capital accumulation; and (4) the variable relationship between growth, capitalist development and dispossession.

**(1)** Between the 16<sup>th</sup> and early 20<sup>th</sup> centuries, labour acquisition and control was a key motivation behind varied policies and practices of dispossession/displacement in Colombia. In contrast, contemporary processes are primarily driven by an interest in the land itself and related resources; there is simply no clear evidence to suggest that either the State (in the case of legal coercive land acquisitions) or elite groups and their paramilitary allies (in the case of private land grabs) have forcibly dispossessed people *in order to* secure their labour power. Here I provide a brief recap of this gradual transformation.

The colonial government imposed a policy of forced relocation, which served its land *and* labour demands, as well as the objectives of Catholic conversion. Put simply: the colonial economy depended upon the usurpation of strategic territories (arable flatlands, mineral rich areas, trading routes, etc.), but also upon the *controlled* displacement of the dispossessed. The creation of indigenous *resguardos*, from the 1590s onwards, was central to this involuntary resettlement policy. However, around the mid 1700s -as the indigenous tribute system entered into decline- many *resguardos* were reduced or dissolved, constituting yet another process of dispossession/displacement. In this context, the landed elite further expanded their property claims in order to prevent the establishment of an independent peasantry (Chapter 3). The latter practice continued post-independence and was especially prominent during a period of successive resource booms and accelerated frontier migration from the mid to late 1800s. So, even in a context of land valorisation, the dispossession of peasant settlers was largely (though not solely) driven by traditional landowners' interest in acquiring and maintaining a dependent workforce for the haciendas (Chapter 4).

Dispossession aimed at labour acquisition began to diminish from the 1930s onwards. On the one hand, as organised peasant movements grew, the landed elite became more preoccupied with defending their existing property claims than extending them in order to acquire additional tenants and workers. Land conflicts and the threat of reform actually led to an inversion of the historical tendency: landowners started to evict peasants rather than attempting to retain them within the large estates. On the other hand, the advance of capitalist agriculture (including the introduction of mechanised farming), combined with population growth, gradually dimmed the 'problem' of labour scarcity, which had defined the Colombian political economy since the Spanish invasion. Meanwhile, land grabs driven by an interest in the productive potential of the land itself and its resources, turned more frequent with the advent and expansion of modern agribusiness and the oil industry (Chapter 5).

This type of dispossession, stirred by the profit potential of new land uses, escalated in the 1990s-2000s. With the intensification and paramilitarisation of the armed conflict, forced displacement became a strategy and opportunity for usurpation and property accumulation. The inherently expulsive nature of contemporary dispossession, it should be reiterated, diverges from historical patterns. The colonial government sought to stop indigenous communities -whose labour was required by the colonisers- from fleeing to remote areas. Migration, though certainly not voluntary, was a form of resistance, of escaping Spanish rule. Similarly, during the 19<sup>th</sup> century, land grabs frequently led to the displacement of the dispossessed; however, this was largely contrary to the objectives of the land grabbers who aimed to forcibly transform settlers into tenants and day labourers. Again, the direct producers resisted subjugation by displacing further afield. Finally, the mass evictions of the mid-20<sup>th</sup> century involved the deliberate expulsion of the peasantry, but these were largely reactionary, an attempt to defend established land claims. In the late 20<sup>th</sup> and early 21<sup>st</sup> centuries, in contrast, dispossession (both 'legal' and 'illegal') has characteristically been focused on clearing people off the land to make way for more profitable ventures. Those behind these processes have shown little interest in the labour power of the dispossessed (chapters 3-8).

Though the above history is specific to Colombia, there are indications that this is a wider trend. Thus, I tentatively proposed that dispossession *motivated* by labour acquisition tends to decline as capitalism develops, while dispossession driven by an interest in the land and its resources tends to increase. Arguably, the capitalist growth imperative creates systemic land pressures that, combined with labour-saving production methods and population growth, has transformed the political economy of dispossession across the globe. In this sense, I suggested that analyses centred upon Marxist concepts often overemphasise proletarianisation, to the detriment of other important issues, when discussing the relationship between dispossession and capitalism. In many parts of the world, the forcible conversion of self-sufficient producers into dependent wage labourers, or one of the many unemployed that make up 'the reserve army', continues. However, this observation does not necessarily tell us *why* dispossession happens or about the *different* roles such processes play in capital accumulation (Chapter 2).

**(2)** While conventional explanations of dispossession typically pin the issue to a weak rule of law, critical theorists tend to emphasise how the law is used to effect and legitimise these processes (Chapter 2). The analyses in this thesis suggest that the contents, interpretation and application of the law are shaped by specific trajectories and visions of

economic development, as well as changing power dynamics, social struggles and the pressures/constraints faced by the government. This controverts mainstream liberal views that represent the legal realm as neutral or a-political. It also challenges overly-simplistic critical views that portray the law as a mere tool of an undifferentiated ruling class; arguably, the law does tend to favour elites but this is not inevitable. The implication is that, depending upon multiple and varied factors, the legal system can be used as 'an instrument of theft' but also to prevent or reverse dispossession. Below I offer a brief summary of the complex interaction between these diverse factors, legislation and dispossession in Colombia – historically and to date.

During the early colonial era the Spanish Crown granted its conquistadors and settlers rights over the lands of what is now Colombia. Nevertheless, it also ordered them to respect the 'property' of the 'indians' – understood in conveniently narrow terms as those lands they 'effectively occupied'. In any case, usurpation continued irrespective of the indigenous peoples' ability to prove 'effective occupation' of their ancestral territories. And though the Crown denounced unofficial land appropriations (i.e. those not sanctioned by its authorities), it simultaneously endorsed the practice via the policy of *composición*, through which those with economic means could pay a fee for legalisation ex-post facto (Chapter 3).

Early *resguardo* policy was partially formulated in response to uncontrolled land grabbing, which was contributing to the extermination and exodus of the indigenous peoples on whose labour the colonial economy depended. While some observers suggest the motivations behind the decision to assign lands to these groups were benevolent, the policy is better understood as the Crown's attempt to order (not halt) processes of dispossession and displacement. Still, some indigenous leaders saw the policy as an opportunity to regain cohesive territories for their communities; they actively solicited the establishment or enlargement of *resguardo* titles. These titles posed an obstacle to *private* land grabs (albeit an imperfect one) but were insufficient protection against State-backed dispossession. From the mid-18<sup>th</sup> century, the colonial government made increasing use of its legislative powers to 'dissolve' and 'reduce' the *resguardos*. By this point the indigenous tribute system was no longer vital to the colonial economy and the government saw the dissolution and reduction of the *resguardos* as a fiscal opportunity, as well as a means of promoting agricultural development. These rationales combined with pressure from elites and non-indigenous labouring classes, who encouraged the authorities to 'release' allegedly 'under-utilised' lands from the collective titles. Ultimately, however, the latter group benefitted little from the new policy of dispossession and displacement (Chapter 3).

After independence, the Liberal government passed a Decree ordering the restitution of usurped *resguardo* land. Nevertheless, it also reiterated orders to partition the collective titles into individual plots. This was presented as a recognition of indigenous peoples' rights to private property, but a number of historians believe the policy was purposefully designed to 'free up' land and labour. The Conservatives later reinstated the *resguardo* and the *cabildo* via Law 89 of 1890; in the decades that followed, indigenous movements and leaders found ways to use this overtly racist law to resist and reverse dispossession (chapters 4 and 5).

Ever since colonial times, traditional landowners attempted to prevent the establishment of an independent peasantry by asserting property rights over large areas. This practice gained increasing significance in the mid to late 19<sup>th</sup> century in the context of accelerated frontier migration and rising global demand for raw materials. In an effort to encourage agricultural growth, the government began to offer land grants to those who established crops in previously uncultivated zones. New laws introduced in the 1870s and 1880s included norms to prevent the dispossession of *colonos* who cultivated State lands. These legislations emboldened peasant settlers to resist usurpation; hundreds of groups joined forces to formally petition the government's intervention on their behalf. In some cases, the *colonos* were victorious. However, many others were forced to become tenants or labourers on land that was once their own or were displaced further afield (Chapter 4).

In the early 20<sup>th</sup> century, the government introduced additional legislation aimed at tackling elite-led dispossession. A number of policymakers (both Conservatives and Liberals) believed that ensuring peasant's access to land was necessary in order to promote agricultural expansion and satisfy rising demand linked to urbanisation and industrialisation. Supported by a 1926 Supreme Court ruling that introduced the so-called 'diabolical property test', Congress ordered all alleged proprietors of farms larger than 2,500 ha to present their titles for revision. The landed elite stalled the investigations and organised a legal challenge. Still, the ruling is said to have empowered peasant movements, which mobilised around the spuriousness of the elites' land ownership claims. The introduction of other laws endorsing the establishment of 'agricultural colonies', which were partially aimed at curtailing the dispossession of productive smallholders, further galvanised *campesino* organisations in some regions (Chapter 5).

The first agrarian reform act (Law 36 of 1936) of the 20<sup>th</sup> century was supposed to strengthen existing norms favouring the peasantry and 'economic exploitation' of the soil. But the landed elite and their allies in government managed to water down the original proposal and the resulting legislation ended up rescinding the 'diabolical property test',

permitting usurped State lands to become legal private property. In other words, the reform validated the outcome of decades of dispossession. On top of this, a limited redistribution program allowed some usurpers to be compensated for lands acquired illicitly (Chapter 5).

The relationship between government policy and the eviction of tenants and peasant settlers was equally convoluted. The hacienda clearances intensified after the first agrarian reform law was passed in 1936, continued into the 1940s despite the government's attempts to restore tenant farming, and were revived in the 1960s following the passing of new reformist legislation. On the one hand, these were often aided by local officials and were broadly 'legal' precisely because the government had recognised the property rights of large landowners, including over State lands they had accumulated illicitly. On the other hand, the evictions went against the objectives of the agrarian legislations that encouraged/enabled them (Chapter 5).

The political will to address previous and ongoing dispossession weakened as government policy shifted towards the promotion of industrial agriculture circa the 1940s. However, this development model contributed to various economic, political and social problems, which combined with continued pressure from the *campesino* population and an ideologically favourable context (the structuralist school's arguments had become popular and the US government promoted reform as part of its communist containment strategy), led to a renewed attempt at redistributive land reform in the 1960s. This reformist period didn't last long. Following yet another elite pact, 'the landowner path' became the official chosen route of agrarian development and the government relaunched its historical campaign of repression against peasant organisations and movements (Chapter 5).

In the wake of economic liberalisation and the abandonment of ISI-style development (a process started in the mid-1970s and consolidated in the 1990s), the economic rationales for attempting to prevent and reverse the dispossession of the peasantry all but disappeared from government discourse. Nevertheless, in 1991, after years of popular demand for legal and political reform, Colombia adopted a new Constitution, which led to the strengthening of indigenous and Afro land rights and to the passing of a new agrarian legislation. The latter (Law 160 of 1994) fortified rules surrounding *baldío* privatisation and restrictions on properties that derive from titles granted over these State lands. These rules, in theory and on the whole, favoured the rural masses and should have prevented wealthy individuals and businesses from benefitting from the dispossession/displacement of *campesinos* who occupied or owned 'reform lands'. The fact that they failed to do so cannot be blamed simply on a weak rule of law; it reflects the political nature of the legal realm (Chapter 6).

Diverse officials have tolerated, facilitated, or even encouraged recent processes of dispossession. In addition to the enabling role of specific actions and inactions, this is reflected in the legislative counter-reform offensive, initiated around 2007, which seeks to annul rules that pose an obstacle to dispossession and land concentration, past and present. This includes proposals to validate unlawful land acquisitions such as those accomplished via irregular titling resolutions (e.g. the granting of State lands to individuals that were not landless peasants and hence were ineligible, sometimes for areas above the legal limits) or via prescription - despite the law declaring *baldíos* imprescriptible, as well as those that violated norms prohibiting the accumulation of former State lands. (Not all unlawful land acquisitions involved dispossession, but most cases of dispossession involved the violation of these same norms.) Some officials have put forward interpretations of the law that would conveniently eliminate the idea that there was a legal violation in the first place. In essence, however, the proposed reforms absolve elite groups from their offences and legalise unlawful acquisitions - echoing the actions of the colonial administration and the Liberal government of the 1930s. Still, the outcomes of this most recent struggle are not written in stone. Social movements and organisations have been challenging the regressive reforms, alongside opposition politicians. Their efforts have been complemented by certain functionaries and entities, such as the Comptroller's Office, which has openly criticised the ongoing legal changes, labelling them unconstitutional (Chapter 6).

The mounting importance of the mining and oil industries within the Colombian economy had profound legal implications. In an effort to promote the further expansion of these sectors, the government introduced laws declaring related investments as projects of 'public utility and social interest', meaning that Colombians have no enforceable legal right to reject oil and mining operations on their lands. The legal arsenal used to effect and legitimate dispossession includes, ironically, the prior consultation process that is supposed to protect indigenous and Afro communities, their way of life and their territories. The Constitutional Court itself, which in many other instances has acted as an important defender of indigenous and Afro rights, ratified an interpretation of Colombian law that effectively obliterated the notion of 'free prior and informed consent' (Chapter 6).

Meanwhile, allies of the oil and mining sectors have been working hard to restrict other Constitutional norms that have been used to challenge the extractive economic model: municipal popular consultations and regulatory power. In 2016, the Constitutional Court rejected the legal argument that municipal authorities cannot influence the use of subsoil. However, representatives of these industries haven't given in and it is likely that they will



invent new interpretations of the law in order to suppress participatory and local democracy, which has been threatening capital accumulation and the elite-led development espoused by the central government. Mining and oil companies not only enjoy the support of many politicians, they are also favoured by Colombia's commitment to various international trade and investment treaties, which may sway the outcome of ongoing disputes (Chapter 6).

Thus, the empirical chapters of this thesis illustrated how specific trajectories and visions of economic development influence domestic legislation, which may be used to advance and legitimate dispossession as well as to prevent and reverse such processes. At the same time, they also indicated how the contents, interpretation and application of the law are shaped by changing power dynamics, social struggles and the pressures/constraints faced by the government. The implication is that even in epochs, such as the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, when dispossession was largely inimical to growth and capital accumulation, laws introduced to limit or reverse such processes were often ineffective, especially due to the political clout of the landed elite. Conversely, labouring classes and allied groups have used the law in their struggles and have occasionally had successes even during periods (such as the present) in which government policy has favoured elite-led development founded on dispossession. So, the law is clearly not 'above politics', as some theorists and policymakers proclaim or insinuate, but neither is it simply an apparatus of a homogenous ruling class.

**(3)** The role of property institutions in propelling -especially capitalist- development is widely accepted as conventional wisdom (Chapter 2); however, the possible inversion of this relationship is rarely acknowledged. This thesis has shown that landed property rights can *impede* economic growth and capital accumulation. During the colonial era elite groups started amassing property rights over huge areas of land, which they left un- or under- used. Colonial officials and politicians post-independence repeatedly commented on the problems caused by a property system that facilitates land hoarding. Nevertheless, speculative accumulation continued unabated and remains a problem in the early 21<sup>st</sup> century. This has contributed to an offloading of land pressures onto smallholders and indigenous/Afro communities, who are more vulnerable to State-backed dispossession and that enacted by private actors. The former involves legislation authorising the violation and restriction of property rights – itself a manifestation of the contradictions intrinsic to the capitalist land regime. It is worth briefly summarising some of the evidence that led me to these conclusions.

The colonial government denounced the expansion of unproductive *latifundia* as far back as the late 16<sup>th</sup> century. However, fiscal interests eclipsed concerns for ensuring lands were used productively and property titles were granted to those who could pay. The issue gained increasing attention in the 18<sup>th</sup> century. The Crown sought ways to promote agricultural growth in 'its colony' and many officials identified land concentration as a key barrier to this expansion. Royal Orders from this period (mid to late 1700s) asserted the State's right to confiscate lands that were not put to productive use, but also contained contradictory reassurances that property rights would be respected (Chapter 3).

Like its colonial predecessor, the newly independent State prioritised fiscal objectives for much of the 19<sup>th</sup> century. It auctioned confiscated Church property, sold off State lands and issued bonds redeemable for these *baldíos* - all in order to service its debts. These Liberal policies only contributed to further speculative accumulation. Land laws were modified in the 1870s as interest in promoting production came to the fore. The government offered land grants to peasant settlers and made newly granted property rights conditional upon economic use of the land by declaring its right to confiscate estates left unexploited for a certain period of time. Nevertheless, the threat of confiscation was seldom acted upon and the problem of idle landownership persisted (Chapter 4).

By the 1920s the land question had become a matter of urgent national interest. Members of both dominant political parties (Conservative and Liberal) agreed that land hoarding and the property system that sustained it posed obstacles to the country's economic development. The Liberals had promised a land to the tiller reform. However, the landed elite and their allies launched an anti-reform campaign, presenting plans to confiscate idle lands as a communist attack on private property. They managed to get the original proposal watered down and the resulting legislation (Law 200 of 1936) ended up reinforcing the problem. It wasn't until decades later, following the passing of new land legislation in the 1960s, that the government finally put its taking powers to use. The agrarian reform institute INCORA began to acquire (mostly) idle land through forfeiture proceedings and to a lesser extent expropriation. However, a pact between the government and the landed elite put an end to this brief redistributive phase (Chapter 5) and speculative land accumulation, often under the guise of extensive cattle grazing, exists to this day.

Government officials and mainstream media have been very adept at shifting attention away from speculative land accumulation by elite groups towards other hindrances to growth-based development. Rules that were supposed to ensure the *campesino* population's access to land and prevent further property concentration, for

example, are attacked for deterring investment. Similarly, prior consultations with Afro and indigenous communities have been labelled an 'obstacle' to Colombia's development - given that the 'right' to free prior and informed consent has already been overridden (communities are not allowed to veto projects declared of 'public utility and social interest'), the remaining 'obstacles' are the costs and delays involved in the process (Chapter 6).

The contemporary political establishment in Colombia baulks at the idea of redistributive land reform, arguing that it has to defend property rights. But the reality is that the market principle of voluntary exchange is regularly infringed to make way for State-backed projects, including oil and mining operations, dams, ports and urban renewal. In other words, recent governments have been more than willing to violate property rights (especially those of low-income homeowners, smallholders and Afro/indigenous communities) when these impede the favoured economic model. In addition, Colombian law prohibits titling within a 2.5 km radius of non-renewable resource exploitation and allows the State to 'reserve' *baldíos* for -among other things- mining and oil investments, thus barring significant numbers of people from accessing titles to their lands and territories, which in turn facilitates dispossession. Put simply: the Colombian State implicitly recognises that property rights can sometimes impede growth and capital accumulation; this is embodied in laws that permit their violation and restriction. But while past governments openly decried the problems caused by the property regime, in particular its role in sustaining speculative accumulation, recent administrations have been reluctant to acknowledge the issue, especially when it concerns elite land claims.

**(4)** Broadly speaking, there are three main views on the relationship between dispossession and capitalist development (Chapter 2). (i) Conventional narratives advise that a high prevalence and/or risk of dispossession has negative impacts on growth and investment. Nevertheless, policymakers and academics, working from the same paradigm, also argue that (ii) growth-based development sometimes requires dispossession and displacement. They justify State-backed coercive land acquisitions specifically, presenting them as a necessary cost of 'progress' or as a means of overcoming market 'failures'. Finally, (iii) critical scholars, especially those that draw on Marxist concepts, tend to emphasise the role of dispossession in the formation and expansion of capitalist social relations and capital accumulation, historically and to date, while also highlighting the regressive redistribution such processes often entail. In other words, they recognise the potential synergies between dispossession and capitalist development but don't normatively endorse these processes or presume they benefit the public (i.e. they simultaneously challenge view i and ii).

Though this thesis was built upon view iii, it also showed that the relationship between dispossession and capitalist development varies across space and time. More specifically, I suggested that the history of dispossession and associated displacement in Colombia is utterly different from Marx's account of primitive accumulation in England and Scotland. All three of the above views are ill-equipped to explain historical processes in Colombia. Recall that between the 16<sup>th</sup> and early 20<sup>th</sup> centuries, *on the whole*, land grabs by *elite groups* favoured neither economic expansion nor the development of capitalism and in some ways obstructed both - though not for the reasons expounded by mainstream theorists<sup>134</sup>. Recent processes of dispossession, in contrast, have played a much clearer role in facilitating growth driven by capital accumulation. There are a few important examples of investment-driven land grabs from the late 1800s and early 1900s but the important shift started to occur mid-century, as the long-established elite practice of dispossessing peasants in order to subjugate them to the hacienda was gradually replaced by new forms of dispossession compelled by an interest in establishing or extending capitalist enterprise. Below, I provide a recap of this shift, which was consolidated towards the end of the century.

The Spanish and the elites in New Granada clearly profited from the dispossession of Colombia's indigenous peoples, in particular the usurpation of gold rich territories. However, the amassing of huge swathes of land by powerful settlers, and the uncontrolled displacement of indigenous people that this elicited, caused various problems. The forcible resettlement of the indigenous population to designated *resguardos* (1600s), which served both the land and labour demands of the regime, played a much clearer role in upholding the colonial economy. However, the tribute system that this policy had supported entered into decline in the century that followed, and the government started to dissolve the *resguardos*. The impact of this new policy (yet another form of dispossession and displacement) on agricultural output is unclear; however, it contributed to the consolidation of the hacienda system, which many historians agree was comparatively inefficient. Towards the end of the colonial era, land is said to have acquired more importance 'as a factor of production' and 'object of commerce'; still, evidence suggests elite-led dispossession was mainly motivated by speculative interests and labour control, rather than transforming land use and production methods (Chapter 3).

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<sup>134</sup> Conventionally, a high risk or prevalence of dispossession is assumed to discourage investment by existing landholders, while also deterring potential investors from acquiring land (Chapter 2). But the reasons elite-led dispossession hindered growth-led development in Colombia, especially during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, are different, as presented in the main text below.

Speculative land accumulation and the use of property claims to acquire a dependent workforce (which were complementary and sometimes indistinguishable) continued to define dispossession throughout the 19<sup>th</sup> century and intensified in the context of early globalisation and rising frontier migration. In order to exploit the opportunities afforded by rising global demand, the traditional landowning class, which already controlled large areas of land, had to increase the labour force under their control. In this context, the landed elite chased peasant settlers across the agrarian frontier, asserting property rights over the lands they cultivated in order to convert them into tenants and labourers. Those peasants who were unable to resist dispossession and did not displace further afield were incorporated into a non-capitalist regime of production and labour exploitation (Chapter 4).

Similarly, in the *early* 20<sup>th</sup> century, *overall*, Colombia's economic development proceeded despite -rather than because of- dispossession and displacement. During this period, small and medium coffee farms began to overtake the haciendas. Foreign exchange earnings from coffee exports allowed for the importation of machinery to support industrialisation efforts, while incomes from coffee sales contributed to domestic demand (unlike the centralised hacienda system, which is said to have limited the expansion of the home market). Furthermore, most food consumed internally was supplied by peasant producers, not by the large estates. Put simply: the smallholder economy, which the traditional landed elite sought to undermine, was financing, stimulating and sustaining the country's industrial development. Finally, many *hacendados* attempted to stop by the outflow of workers from the haciendas to construction and other urban sectors; suggesting that initial industrialisation in Colombia was at least partially supported by voluntary migration, rather than forcible displacement (Chapter 5).

As noted above, the elite practice of asserting property rights over lands cultivated by peasant settlers *in order to* convert them into tenants and labourers continued into the early 20<sup>th</sup> century but gradually waned and was superseded by mass evictions in the 1930s and 1940s. These hacienda clearances were reactionary (they were aimed at guarding against peasant land claims and, in some cases, destabilising the smallholder coffee economy) and were detrimental to production – at least in the short term (Chapter 5).

State support for a 'landowner path' of agrarian development, the growth of domestic agribusiness and changes in production techniques, from the 1940s onwards, started to alter the political economy of dispossession in Colombia. With government assistance, many landowners established mechanised crops on flatlands formerly used for cattle ranching and usurped from peasant settlers or cleared of tenants in earlier epochs. In other words,

elite groups started to use lands accumulated through decades of dispossession in ways that contributed to an expansion of exchange value. Agribusiness growth also stimulated new processes of dispossession – stirred by a drive to expand profits within a capitalist system of production, rather than an interest in subjugating peasants to the hacienda (Chapter 5). This type of dispossession became even more ubiquitous towards the end of the century.

On the one hand, the government constructed a legal regime of coercive land acquisition to safeguard the continued growth of the mining and oil industries, justifying the use of extra-economic force on the dubious grounds that these private investments serve a broader ‘social interest’. On the other hand, the para-elite land grab, as well as opportunistic and predatory property acquisitions during and in the aftermath of violence, served and were served by the government’s economic development model, in particular policies aimed at promoting industrial agriculture and commercial forestry and mining/energy projects.

All in all, the relationship between dispossession and capitalist development in Colombia does not fit neatly with any of the views described above. During the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, elite-led dispossession largely hindered economic expansion (controverting views ii and iii), but not because landholders or potential investors were put-off by insecure tenure. Peasant settlers continued to clear land and plant new crops despite the fact that their work was likely to be appropriated by the landed elite; while international investors that established in Colombia during this period (e.g. the United Fruit Company and petroleum firms) actually profited from the tenure insecurity endured by the masses (contrary to view i). While there are examples of investment-driven land grabs during this early phase of globalisation, the traditional landowning class mostly usurped the land cultivated by peasant settlers in order to subjugate them to the hacienda; such processes clearly did not contribute to the formation and expansion of capitalist social relations (challenging view iii). Recent and contemporary dispossession in Colombia, both ‘legal’ and ‘illegal’, has played a much clearer role in profit-driven capital accumulation and growth-based development (favouring view iii and destabilising view i). But this dispossession cannot, in my view, be justified in the name of some normatively-defined notion of ‘progress’ (in contrast to view ii).

Summing up, this thesis has offered original insights into the issue of land dispossession broadly and in the Colombian context specifically. The originality stems from the emphasis, perspective and approach of the research. As mentioned in the introduction, dispossession has typically been treated as an appendage to other issues. In contrast, I put

dispossession at the centre of analysis. This provided for a unique narration of Colombian history and a distinctive account of recent land grabs in the country. It required the construction of a conceptual framework focused on dispossession, which may be of use to others. Meanwhile, a critical political economy perspective allowed me to highlight how and why dispossession unfolds and the diverse factors that shape these processes, challenging mainstream explanations of the phenomenon. This perspective also helped me to identify the limitations of concepts such as primitive accumulation and accumulation by dispossession, which predominate in critical scholarship on land grabbing. Much of this would not have been possible without an exploratory research approach. I did not set out to test a specific set of hypotheses and hence was able to continually reformulate my questions and ideas. The broader arguments put forward in this thesis open up multiple avenues for future research, including projects focused on evaluating the validity of specific claims (e.g. regarding the role of property rights violations and restrictions in capitalist development), which are relevant to scholarship concerned with dispossession but also wider debates (e.g. regarding the nature of capitalist market economies and liberal democracies) within diverse fields of social inquiry. I end this thesis how I began, with the words of people who have been struggling against dispossession in their everyday lives - a final brief descent from abstract academic discussions and reminder of the violence (structural, symbolic and physical) on which capitalist development in Colombia is based.

Once in 2013 we had a meeting with a functionary from [the oil firm] Vetra. She said: “you haven’t understood, the government sold us this little house” and “there are some obstacles that we are going to remove”. She said this after we had made a single request: that she show us just one place where we can see the ‘golden birds’ she talks about, a place where oil [exploitation] has had positive impacts, where the community was better off after the arrival of the oil company. She replied: “that is impossible”. [...] That same year mortar grenades were fired from the military base into the Reserve Zone territory where the company plans to work. [...] But] Vetra hasn’t been able to enter [this part of the PRZ]. We haven’t let them (Inhabitants of the Amazon Pearl Peasant Reserve Zone - Putumayo, personal interview, 2015).

Two of our friends are dead. They killed Ángela Muncué in April and they killed her husband in October. [...] When the oil companies weren't here, we lived well. [... Now] there are people wondering around at night [in our lands] and we don't know who they are. So, when there is opposition, when there is a person who defends the territory, they are disappeared [or murdered...] That is the situation in which we live (Inhabitant of Jerusalén-San Luis - Putumayo, personal interview, 2015).

The government has made big deals with the multinationals claiming that in Putumayo there are no people, that no one lives here. But we live here! There are people in all corners. There are no empty territories. The baldíos that the government talks about, they aren't baldíos, because our ancestors live there and there are footprints. We are the owners of our land (Inhabitant of Floresta or Alpes Orientales - Putumayo, personal interview, 2015).

[One of the mining company's functionaries,] he told me: "we're going to knock-down your town in five years. The politicians of your country legislate for us". This struggle has been going on since 2005. [... For them] our houses are worth nothing, we as humans are worth nothing. I fight for dignity [...] The only thing that matters to the government is the gold (Inhabitant of Marmato - Caldas, personal interview, 2014).

They created development projects [palm oil cultivations] with blood, with impunity, with pain. That is the cause of the war, why war was forced on us. [...] They think about the development of the rich. And they want to turn us into business people, but we are not business people and we don't want to be. Our development is not that of destructive consumption, it's production for our own survival and that of humanity (Inhabitant of Curvaradó or Jiguamiandó - Chocó cited in CIJP, 2005, p. 61).



## Epilogue: land restitution and the 2016 peace agreement

This thesis would be incomplete without a concluding reference to two ongoing processes<sup>135</sup>: land restitution and the implementation of the 2016 peace agreement between the Colombian government and the FARC. I start with the former. The 2011 Victims and Land Restitution Law (Victims Law or Law 1448) established a new route for people to reclaim land that was usurped or abandoned in the conflict-context. The Law includes safeguards not found in ordinary legal processes (e.g. inversion of the burden of proof) that favour claimants and hence is not tailor-made to suit the beneficiaries of dispossession, as some observers insinuate. Representatives of the landed elite would not be working so hard to reform Law 1448 if it already served their interests well<sup>136</sup>. Nevertheless, as reiterated throughout this thesis, the relationship between law and dispossession is never straightforward. A few brief points deserve mention here.

(1) Significant numbers of people who may be eligible for restitution have not even applied (see my article: Thomson, 2017); among other reasons, due to ongoing violence and threats against the dispossessed. At least 72 land restitution leaders and claimants from across Colombia have been murdered<sup>137</sup> (Valencia, 2016). As one human rights defender explained: “In all of Caldas there is dispossession but there is more fear than dispossession. There are many that have told me [in response to suggestions that they should apply for restitution]: ‘definitely not, because my mother doesn’t want any more problems – we already had so many problems when they took us from the land’...” (Personal Interview, 2015). Thus, dispossession may go unchallenged, not because of the way the law is written, but simply because the victim is too scared to claim. Law 1448 expires in 2021 and the government recently decreed a deadline, after which no more restitution applications can be received (CCJ, 2018) - so for those who haven’t applied, it will soon be too late.

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<sup>135</sup> This epilogue was originally going to be a full chapter. However, I faced the difficult choice between including a detailed analysis of the restitution program and the 2016 peace agreement and other chapters, which I ultimately decided were more important to this thesis.

<sup>136</sup> There have been multiple attempts to reform Law 1448. The Centre Democratic Party just put forward (September 2018) yet another proposal to reform restitution, which experts suggest would turn the Law into a tool for legalising dispossession (Observatorio de Restitución, 2018).

<sup>137</sup> The total number of leaders and claimants killed is likely to be higher, especially when those who applied under previous restitution processes are included: for example, the Ombudsman’s Office documented the murder of 71 land restitution leaders between 2006 and 2011 (HRW, 2013, p. 30) – i.e. prior to the passing of the Victims Law.

(2) The restitution process under Law 1448 includes an administrative and a judicial phase. While judicial sentences tend to favour restitution – e.g. a sample of 1,500 sentences revealed 94% of cases were resolved in favour of the claimant (Forjando Futuros, 2016), a recent investigation by the Colombian Commission of Jurists (CCJ) points to the high numbers of applications -more than 40,200 cases or circa 63% of those reviewed- rejected during the administrative phase, especially during the period 2015-2017. The Land Restitution Unit does not have a detailed record indicating why each application was rejected. The CCJ notes that the rate of rejection increased significantly in recent years and suggests that the criteria used by the Unit's functionaries must have changed. It is likely that at least some of these more than 40,000 applications were rejected prematurely on unfair grounds (CCJ, 2018). So, other cases of dispossession may go unchallenged due to careless administrative decisions or, as suggested by CCJ, the drive to meet targets and deadlines.

(3) Having reached the judicial phase, the dispossessed may face pressure to sign land use contracts with the current occupant. Article 99 of Law 1448 insinuates that the displaced will be obligated to accept existing agroindustrial projects on their 'restituted' land through the signing of such contracts. In cases where the occupant is deemed to have acted in 'bad faith', control of the project is passed onto the Land Restitution Unit (which may contract third parties to manage and operate it) and any profits should be used for 'reparations' of the restituted parties and other victims from the area (Congreso de la República de Colombia, 2011a). Concerns were taken to the Constitutional Court, which resolved that Article 99 is 'conditionally constitutional' - upon the understanding that the continuation of a project would depend on the victim's consent (Sentence C-820 - Corte Constitucional, 2012). Some observers rightly suggest that the consent proviso could prove meaningless "given the asymmetry of power between the claimant and the occupant" (Amnesty International, 2014, p. 41). However, I have not found sufficient information to assess whether or not this has become an important tool for securing land use changes achieved through dispossession.

(4) Many oil and mining concessions overlap with land usurped or abandoned in the conflict-context and with corresponding restitution claims (Peña, 2013). In some instances, the overlap may be incidental, but in others there are clear links between forced displacement and the extractive industries, as discussed in Chapter 8. The 2014-2018 National Development Plan affirmed that it should be considered 'judicially impossible' to restitute land in areas required for PINES or Projects of National Strategic Interest, including oil and mining investments. The associated legislation basically tried to

rationalise the double-dispossession imposed on people in such cases, by incorporating expropriation into the restitution process. The Constitutional Court declared Article 50 of the Development Plan Law (1753 of 2015) unconstitutional, but not for the reasons one might hope. The Court sentence guarantees victims' 'right' to be dispossessed through the same procedures that apply to other citizens - rather than through the restitution process (Sentence C-035 - Corte Constitucional, 2016a). Hence, the ruling reiterates that restituted land is not excluded from the forcible imposition of mining and oil operations and other investments considered of 'public utility' - the interested company simply must wait until restitution is complete and then initiate standard procedures.

The legal norms are vague about what should happen to displaced people whose land is *already* occupied by mining or oil operations. A judge would probably offer relocation or monetary compensation instead of restitution, as described under articles 72 and 97 of the Victims Law. The latter notes a list of reasons the judge may consider restitution impossible, such as (a) if the land is in a 'high risk area'; (b) if the land has already been restituted to another victim who was usurped of the same plot; (c) if there is evidence that restitution would compromise the life or personal integrity of the victim and/or his or her family; or (d) if the land has been totally or partially destroyed to a point that would prevent the victim from rebuilding his or her life there (Congreso de la República de Colombia, 2011a). Mining and oil operations could constitute a risk to the returning farmer or community or have caused total or partial destruction of the land and hence fall under this list of 'exceptions'.

In sum, active mining and hydrocarbon projects may prevent restitution from taking place, while returnees can be forcibly displaced and dispossessed a second (or third!) time to make way for future investments. For many, this renders meaningless the 'guarantees of non repetition' promised by the Victims Law. Recall the examples from César: evidence suggests paramilitary forces in the region were funded by coal companies and that many assassinations, displacements and land grabs were aimed at benefitting this industry. So, contrary to what the Constitutional Court claims (Sentence C-035 of 2016), dispossessing or displacing someone a second or third time to make way for projects that are intimately tied with the history of violence they already suffered can indeed be called 're-victimisation'.

(5) Even if a person plucks up the courage to apply for restitution, successfully overcomes any barriers in the application process, gets past the administrative phase, obtains a restitution sentence to their favour, are not pressured into accepting land use agreements, and are not affected by oil and mining concessions - this does not guarantee a successful return. There are multiple impediments, here I mention just two. In a few cases,

the current owners/occupants of the restituted land have refused to leave and even attacked returnees. More generally, it may not be safe for the dispossessed to re-establish on their lands. Many more families may not be able to afford to return and rebuild; limits on compensation written into Law 1448 and related decrees mean that the support offered is often insufficient. The program doesn't even absolve victims of debts that they were unable to pay as a result of the conflict (e.g. investments tied up in crops and homes that were destroyed) and returnees are expected to take on new loans to finance replacement cultivations and homes. The upshot is that some could be obligated to sell their restituted land as soon as the associated transaction freeze period is over or could even end up foreclosed on by the bank (see e.g. Amnesty International, 2014). Put simply: the restituted may be dispossessed yet again through market mechanisms, intimately tied to the violent-context and underfinancing of Law 1448.

Overall, I would argue that the restitution policy exemplifies the government's endeavour to simultaneously project a strong rule of law without destabilising the established economic model. This means challenging the means or methods without challenging the wider outcomes of dispossession. Arguably, the Santos administrations (2010-2018) were particularly keen to strengthen the legitimacy of the government, both internal and external. Legislations such as the Victims Law surely contributed to the country's admission into the Organisation for Economic Co-operation and Development and its improving reputation as an 'investment destination'. I do not mean to imply that restitution is merely a tool for getting in the international community's good books. I believe many of the people who wrote Law 1448 and work hard to implement the restitution program, despite the difficulties, genuinely want to see the dispossessed regain their lands. However, it is clear that, overall, the government does not aim to reverse the violent transformation of the Colombian countryside.

Similar arguments can be made about the 2016 peace accords. The Santos administration repeatedly promised that neither property rights nor the economic model would be affected by the negotiations with the FARC (see e.g. *El Espectador*, 2015; *El Tiempo*, 2014b). This leaves a question mark hanging over celebratory declarations that the agreement will help "solve the historical causes of the conflict" (Acuerdo Final, 2016, p. 10).

The first point of the agreement, on Integral Rural Reform, promises to create a Land Fund with 3 million hectares for distribution. Where will this land come from? Forfeiture proceedings against (e.g.) narcotraffickers and proprietors who left their lands idle; the recovery of State lands acquired unlawfully; purchases and donations; and expropriation

(Acuerdo Final, 2016, p. 14) – all mechanisms, it should be said, that already existed in law. It is unlikely the government will make significant use of expropriation and confiscation of idle lands belonging to elites. Indeed, official discourse focuses on furnishing the Fund with State lands. However, this clashes with the legislative counter-reform described in Chapter 6, which includes efforts to legalise ex-post-facto the unlawful acquisition of State lands and to facilitate the leasing of remaining *baldíos* to large-scale investors. Hence, while negotiating with the FARC, the Santos administration was simultaneously promoting policies that undermine what is supposed to be the basis of the Land Fund at the centre of the first point in the accords. More generally, it has sustained a bias towards industrial agriculture, which sits uneasily with its ‘peace vow’ to support the ‘*campesino* economy’.

So, the government has been pushing forward with the established economic model, as promised to national and international investors. In terms of the mining and energy sectors, representatives were already assessing the profitability of the peace agreement before the deal was signed: “the conflict is happening to a great extent where there is oil, and above all the oil of the future. Peace liberates the oil...” (President of Ecopetrol, Juan Carlos Echeverry, in an interview published with *Dinero*, 9/16/2015). Thus, the disarmament of the FARC may enable new processes of dispossession and displacement by opening up areas where investments had been limited because of their presence.

To reiterate a point made in the introduction of this thesis: a de-escalation of armed conflict, *ceteris paribus*, is likely to transform, rather than resolve, dispossession and associated displacement<sup>138</sup>. The lived experiences of people displaced for ‘development’ and those displaced in the context-conflict are not dissimilar. The historical overlap between ‘legal’ and ‘illegal’ forms of dispossession and displacement in Colombia only intensifies this lived similarity. Millions of rural Colombians are unlikely to swiftly forget the links (proven and suspected) between the extractivist economy and the war waged against them. Nor are they likely to quickly forgive the State’s role in this dynamic. For many, without a change in the economic model, the transition to ‘peace’ is emptied of substance.

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<sup>138</sup> In any case, not all regions in Colombia can celebrate the ‘de-escalation of armed conflict’. Some were already controlled by ELN rebels or neo-paramilitaries, while many other regions -previously strongholds of the FARC- are now disputed between different groups, including dissidents of the latter who refused to disarm and, of course, State forces. Meanwhile, targeted assassinations are reported to have increased. According to one source, between the signing of the peace agreement in November 2016 and May 2018 -i.e. in less than 2 years- some 385 community leaders, land restitution claimants, environmental activists, human rights defenders and ex-combatants were murdered - 161 of them belonged to the movement Marcha Patriótica (Contagio Radio, 2018).

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